

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD
ON ELECTRIC GENERATION AND TRANSMISSION SITING**

In the Matter of:

ELECTRONIC APPLICATION OF BLUEBIRD)	
SOLAR LLC FOR A CERTIFICATE OF)	
CONSTRUCTION FOR AN APPROXIMATELY 90	)	CASE NO.
MEGAWATT MERCHANT ELECTRIC SOLAR	)	2021-00141
GENERATING FACILITY IN HARRISON COUNTY,)	
KENTUCKY PURSUANT TO KRS 278.700 AND)	
KAR 5:110)	

**BLUEBIRD SOLAR LLC'S
RESPONSES TO SITING BOARD'S
FIRST REQUEST FOR INFORMATION
DATED APRIL 8, 2022**

Data Request SITING BOARD_1_1:

Refer to the Application, Attachment J, page 1. Provide an estimate of the output value of the 1,343 acres currently and an estimate of the increase in output value as a result of the project.

Response: The custom IMPLAN model of Harrison County predicted the value of output for this scale of construction at \$30.8 million and total output, including spinoff activity of \$40.3 million.

Gross receipts from farming are estimated to amount to \$575,000 based on plausible assumptions. It can be assumed that the site contains 1,000 acres of tillable land, and that the land is split 50/50 between corn and soybean production. According to the latest Census of Agriculture, Harrison County had 4,952 harvested acres of corn and 4,999 harvested acres of soybeans. The average yields per acre in Harrison County were 180 bushels of corn and 53 bushels of soybeans; resulting in cash receipts of \$3.72 per bushel of corn and \$9.14 per bushel of soybeans.

The IMPLAN model of Harrison County simulates these crop sales. It predicts total County-wide crop output of \$620,000. Of course, the solar construction is expected to last about one year, while the farming activity is an annual contribution to the economy. For further perspective, the IMPLAN model predicts that farming activity generates only 5.6 jobs per year. The operation of the solar facility is likely to support two or three direct jobs in the County over the life of the project. Moreover, two additional mitigating factors exist:

if sheep are deployed on the property, some agricultural output will occur while the solar farm is operating; and the lease payments to farm owners will be much higher than the income they could earn from farming, and a much of that income will flow back into the local economy.

Witness: Paul Coomes

Data Request SITING BOARD_1_2:

Refer to the Application, Attachment J, page 2.

- a. Provide detailed support for the estimated on-site labor costs amounting to \$15.1 million. Include in the response a breakdown of hours required by occupation.
- b. Explain whether Bluebird Solar provided data that showed or allowed the calculation of construction labor costs, as opposed to costs having to be estimated.
- c. Explain whether the estimated \$15.1 million in labor costs include fringe benefits and other indirect labor costs. If not, explain whether Bluebird Solar is required to pay these costs to its workforce during the construction period.

Response:

- a. The company provided a detailed schedule of projected labor costs in its CLMA Labor Report. It projects labor requirements, hours, hourly wages, and fringe benefits by occupation. Aggregating Bluebird's listed occupations results in a weighted average hourly wage of \$35.46 and that, multiplied by the 426,000 expected hours for employees to work, totals a payroll of \$15.1 million.
- b. See previous question and answer. Coomes used the company's detailed projections.
- c. The above-mentioned detailed labor schedule also includes estimates of fringe benefits by occupation. The weighted average fringe rate across all occupations was 45.4

percent. This means the full labor compensation for construction work would be \$22.0 million. Basing this information on company projected fringe benefits, it can be assumed that the company is planning to pay the fringe benefits.

See attached Bluebird CLMA Labor Report: "Bluebird CLMA Labor Report_Rev 17.1," BSLLC_R_SITING BOARD_1_2_Attachment.

Witness: Paul Coomes

Data Request SITING BOARD_1_3:

Refer to the Application, Attachment J, page 3.

a. Of the 69 new estimated jobs created as a result of the direct project expenditures, explain, if possible, what occupational job categories will experience the employment increase.

b. Provide support for the increase of \$3.12 million (\$18.22 million total minus \$15.10 million construction costs) in new payroll for Harrison County.

Response:

a. The IMPLAN model predicts potential spinoffs across 500 industries, most negligible. For the solar construction project, the top impacted local industries are provided in the next table. The top industries impacted are health care, retail, and restaurants. While not explicit in the model, it is clear that the top occupational categories will be in the health care professions, retail sales, and food service.

Hospitals	6.6
Retail - Building material and garden equip and supplies stores	3.6
Full-service restaurants	3.2
Limited-service restaurants	3.2
Retail - General merchandise stores	3.0
Commercial and industrial machinery and equip and leasing	2.1
Nursing and community care facilities	2.1
Other real estate	2.1
Individual and family services	1.9

b. Using the modeling in the previous answer, the IMPLAN model predicts employment and payroll for each local industry impacted. So, for example, the 6.6 new

hospital jobs created have an average pay of \$73,100. Totaling average pay across all the impacted industries yields the \$3.12 million spinoff payroll amount.

Witness: Paul Coomes

Data Request SITING BOARD_1_4:

Refer to the Application, Attachment J, page 5. Explain whether the occupational wage rates for the seven regional county study area are the same as those used in the Harrison County study area.

Response: As mentioned, the IMPLAN model has information on average pay per industry but does not break out pay by occupation. However, the model does differentiate the pay by industry among counties. So, for example, if the average pay in the Hospital industry in Harrison County is \$70,500, that is compared to \$74,700 in the seven-county region.

Witness: Paul Coomes

Data Request SITING BOARD_1_5:

Refer to the Application, Attachment J, page 3. Provide an estimate of the income tax revenue generated by the two or three jobs created during the operational phase of the project.

Response: Harrison County assesses no local income tax, so the question is assumed to refer to occupational and net profits tax. Assuming an average pay of \$50,000 for three employees, the annual tax payments to Harrison County would amount to \$2,300.

Witness: Paul Coomes

Data Request SITING BOARD_1_6:

Refer to the Application, Attachment J, pages 5–6.

- a. Provide an estimate of the current income tax revenue generated by the 1,343 acres.
- b. Explain whether the current income generated by the 1,343 acres for the property owners is subject to the Harrison County occupational tax. If so, provide an estimate of the current amount.
- c. Provide an estimate of the increase income tax revenue as a result of the project in both Harrison and in the seven regional counties.
- d. Explain whether the surrounding counties in the seven regional county area levy an occupational tax. If so, provide an estimate of the occupational tax revenue generated for both the construction and operation phase.

Response:

a. Without doing a fresh study of the site, economic analysts cannot know how many employees and businesses the current land use supports; however, it is presumed that most land is in agricultural or residential use. Agriculture is by nature very land-intensive, so the amount of acreage the site would include is likely to support few farmers and agricultural workers. Farm owners are subject to the Harrison County net profits tax of 1.5 percent. However, based on data from the US Bureau of Economic Analysis, over the last decade, farm proprietors in Harrison County average a net income loss of \$3,300 per year. This is typical in small, Kentucky farming operations where receipts often do not cover agricultural expenses. If necessary, the Harrison County government could provide

the net profit returns from these farm owners for the last decade to provide a precise answer.

b. See previous answer.

c. As stated on page 5 of the Coomes report, widening the geographic scope to seven counties results in an estimated increase of \$3.2 million in new regional payroll from construction, as compared to the Harrison-only scenario. A variety of occupational tax rates exist among the six other counties, with Fayette having the highest rate of 2.25 percent. The most common rate is 1.0 percent, which is applied in Nicholas, Pendleton, and Scott counties. Bourbon County has a rate of 0.75 percent. The Robertson County rate was not readily available. Using the most common rate suggests that the additional regional occupational tax revenues would amount to \$32,000 spread across these counties.

d. See previous answer to the income tax question, which was crafted using occupational taxes as Kentucky does not allow local income taxes. The operations phase impacts would result in negligible regional effect, as it only involves two or three jobs in Harrison County.

Witness: Paul Coomes

Data Request SITING BOARD_1_7:

Refer to the Application, Attachment J, page 6. Explain how the industrial revenue bond and payment in lieu of taxes process works and why this is advantageous to Bluebird Solar.

Response: Industrial Revenue Bonds (IRB) and Payment in Lieu of Taxes (PILOT) are common economic development tools used in Kentucky and other states. County governments that want to attract a new industrial development in their county can use their bonding power to borrow money at a lower interest rate than the company making the investment. The County issues the bond for all or part of the capital cost of a project, and the company agrees by contract to make the debt service payments. Over the life of the IRB, the County government owns the new property and, thus, the buildings and equipment are exempt from property taxes. The company then benefits from a lower debt service and lower property taxes, making the County a more attractive place to invest. Generally, agreements require that the local public school system not lose property tax revenues because of the IRB, and the company makes PILOTs to the schools each year based on what they would have paid without an IRB.

Witness: Paul Coomes

Data Request SITING BOARD_1_8:

Provide the number of miles between the Bluebird Solar Project and the Blue Moon Energy Solar Project (Blue Moon), Case No. 2021-00414, currently pending before the Siting Board.

Response: Based on public information from the Blue Moon project website, the two projects are approximately seven miles apart.

Witness: Clay Canning

Data Request SITING BOARD_1_9:

Explain any overlaps in the projected construction schedules of this project and Blue Moon.

Response: Based on public information from the Blue Moon project website, the targeted operation date of Blue Moon is six months after Bluebird, which will reduce the overlap of major construction activities between the two sites.

Witness: Clay Canning

Data Request SITING BOARD_1_10:

Describe the potential for cumulative effects on traffic and roadways from construction activities of the two projects, and any steps planned to minimize this.

Response: The six-month offset between the construction of the Blue Moon and Bluebird projects should stagger major construction deliveries to both sites. This will minimize any traffic delays or incidents that could impact traffic patterns in the areas local to the projects and, generally, throughout Harrison County.

Witness: Clay Canning

Data Request SITING BOARD_1_11:

Describe the potential for cumulative noise effects resulting from the construction activities of the two projects, and any steps planned to minimize this.

Response: The distance between the projects is great enough that no cumulative noise effects should exist.

Witness: Clay Canning

Data Request SITING BOARD_1_12:

Describe the potential for cumulative effects on property values and land uses from the operation of the two projects.

Response: The distance between the two sites is great enough that the coexistence of the projects should bear no cumulative effect on property values and/or land uses in the area.

Witness: Clay Canning

Data Request SITING BOARD_1_13:

Describe what steps have been taken, or will be taken, to communicate with the applicants in Blue Moon to coordinate to avoid potential detrimental effects referenced in Items 9–12 above.

Response: Bluebird will attempt to communicate with Blue Moon to coordinate the projects' construction activities prior to the commencement of construction activities to avoid causing any detrimental cumulative effects on the community.

Witness: Clay Canning

Data Request SITING BOARD_1_14:

Submit a copy of the leases or purchase agreements, including options, separate agreements or deeds, that Bluebird Solar has entered in connection with the footprint for the proposed solar facility, including the agreements for each of the parcels of the project.

Response: See confidential attachment of Bluebird Lease Agreements: "CONFIDENTIAL: Bluebird Lease Agreements," BSLLC_R_SITING BOARD_1_14_Attachment.

Witness: Clay Canning

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 2nd day of May, 2018 (the "Effective Date"), by and between Sam W. Arnold III (collectively, "Landlord") and Blue Jay Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord within ten (10) days of full execution (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, an approximately 15.1 acre portion of that certain property with Parcel ID No. of 066-0000-007-01-000 containing approximately 19 acres, located at KY Hwy 353 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the portion of the Land delineated in the Survey and shown on Exhibit B attached hereto and by this reference made a part hereof, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners, Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written

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notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises (“Released Premises”) The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the “Premises” for purposes of this Lease, and all payment amounts based on acreage shall remain based on fifteen (15) acres . In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A/B as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreage or Primary Land and Secondary Land as shown on the Survey shall be binding on the parties hereto. Any such Released Premises shall automatically be removed from the “Premises” and the “Land” as those terms are defined and used in this Lease.

As used herein, “Primary Land” shall mean portions of the Premises that is currently and/or was previously used for row crop production or livestock grazing, that is void of timber stands (either currently in place or recently harvested) wetlands and flood zone, and furthermore is substantially void of trees and/or stumps and “Secondary Land” shall mean all portions of the Premises that are not Primary Land.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre of Primary Land located within the Premises (prorated for any fractional acres) plus [REDACTED] per acre of Secondary Land located within the Premises (prorated for any fractional acres), each as determined by the Survey. Until completion of the Survey, annual rent payments shall be based on Primary Land consisting of 15.1 acres and Secondary Land consisting of 0 acres. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED].

(d) As used herein, and subject to the terms of this Section 2(e), the term “Rent Commencement Date” shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year

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following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "Notice of Proceeding") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Farm Rent Offset"), which shall be payable as follows: [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] [REDACTED] per acre in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

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5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental

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entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any “roll-back” taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant’s use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant’s use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant’s sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant’s judgment, the remainder of the Premises is not suitable for Tenant’s purposes (herein called a “Total Taking”), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a “Partial Taking”), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant’s leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant’s business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld,

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conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the

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Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications.

(a) Tenant shall defend, indemnify, protect and hold harmless Landlord, and its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Landlord (collectively, including Landlord, the "Landlord Parties") from and against all claims, demands, liabilities, losses, damages, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Claims") suffered or incurred by any of the Landlord Parties as a result of or arising out of: (a) any acts, omissions or negligence of Tenant, its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Tenant (collectively, including Tenant, the "Tenant Parties") in connection with Tenant Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Landlord Party, or (b) a breach of this Lease by Tenant that remains uncured after any applicable notice and cure period. Notwithstanding the foregoing, the Landlord Parties hereby waive any Claims against the Tenant Parties for damage or injury suffered by the Landlord Parties arising as a result of any audible or electromagnetic noise, vibration, electrical interference and radio frequency interference attributable to the Tenant Parties' operations on the Premises or any other property, provided that nothing herein shall be deemed to release Tenant from its obligation to defend, indemnify, protect and hold harmless the Landlord Parties from third party claims under the first sentence of this Section 17(a). The Tenant Parties shall not be liable for losses of rent, business opportunities, profits or any other consequential damages that may result from the conduct of Tenant Parties' uses of or operations on the Premises.

(b) Landlord shall defend, indemnify, protect and hold harmless the Tenant Parties from and against any and all Claims suffered or incurred by any of the Tenant Parties as a result of or arising out of: (a) any acts, omissions or negligence of any of the Landlord Parties in connection with Landlord Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, (b) the condition of the Premises that Landlord has knowledge of, or after reasonable inquiry, should have knowledge of, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, or (c) a breach of this Lease by Landlord that remains uncured after any applicable notice and cure period.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or

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registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

- To Landlord: Sam W. Arnold III
103 Court St.
Cynthiana, KY 41031
- To Tenant: Blue Jay Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr
- And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

- (a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

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(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

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(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Ownership of Solar Energy and Attributes; Tax Credits and Incentives. Landlord hereby acknowledges and agrees that Landlord shall have no ownership or other interest in (and Tenant is the sole and exclusive owner of) the solar farm and all related generation, transmission and interconnection facilities (the "Energy Facilities") installed on the Premises or any environmental attributes produced therefrom, including, without limitation, any and all federal, state and/or local benefits and credits (including tax credits, investment credits, carbon credits, solar energy credits), rebates, incentives, benefits, emissions reductions, entitlements, reporting rights, deductions, depreciation, offsets and allowances of any kind, howsoever entitled, attributable to the solar farm and its related facilities or the electric energy, generation capacity or other generator-based products produced therefrom, whether in effect as of the date of this Lease or as may come into effect in the future.

27. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

(i) An exclusive easement for electrical interconnection purposes;

(ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;

(iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;

(iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the

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foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and

(v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

28. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

29. Section Deleted

30. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for

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purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 30; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 30.

31. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

32. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

33. Counterparts and Email/PDF. This Lease may be executed in counterpart or by emailing .pdf or other compressed digital files, or any combination of the foregoing. All counterparts together shall constitute one and the same Lease.

34. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

35. Leasehold Financing.

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(a) Tenant, any successor or assignee of Tenant, or any holder of a sublease or license (each hereinafter sometimes referred to as an "Obligor") may at any time mortgage, pledge, or encumber to any entity (herein, a "Lender") all or any portion of the Obligor's rights and interests under this Lease or such sublease or license, in each case without the consent of Landlord. For purposes of this Lease, each entity which now or hereafter is the recipient or beneficiary of any such mortgage, pledge, or encumbrance and whose lien or encumbrance is now or hereafter recorded in the official records of the County in which the Premises is located, shall be referred to in this Lease as a "Lender".

(b) Tenant and Landlord expressly agree between themselves and for the benefit of any Lenders, that if an Obligor mortgages, pledges, or encumbers any of its rights and interests as provided in subsection (a) above, then notwithstanding any other provision of this Lease to the contrary:

(i) Landlord and Tenant will not terminate, suspend, amend or modify, or take any action causing, consenting to, acquiescing in, or accepting the termination, suspension, amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Lender hereunder or impair or reduce the security for any lien held by such Lender, without such Lender's consent.

(ii) Each Lender shall have the right, at its discretion, to take, or cause to be taken, any action required to be performed under this Lease by the Obligor that is party to such Lender's mortgage, pledge or encumbrance, and any such action performed by such Lender shall be as effective to prevent or cure a default under this Lease and/or a forfeiture of any of such Obligor's rights under this Lease as if done by such Obligor itself.

(iii) The right of a Lender to receive notices and to cure Obligor's defaults pursuant to the provisions of this subsection (b) shall be available only to those Lenders which shall have notified Landlord in writing of their name and address, regardless of whether the specific provision in question expressly so states. No default which requires the giving of notice to Obligor shall be effective unless a like notice is given to all Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. If Landlord shall become entitled to terminate this Lease due to an uncured default by Obligor, Landlord will not terminate this Lease unless it has first given written notice of such uncured default and of its intent to terminate this Lease to each Lender which has previously notified Landlord in writing of their name and address and has expressly requested such notice, and has given each Lender at least thirty (30) days after the expiration of the cure period which this Lease provides to Obligor for curing such default, to cure the default to prevent such termination of this Lease. Furthermore, if within such thirty (30) day period a Lender notifies Landlord that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Lease in order to cure the default, Landlord shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor. In the event a Lender shall elect to exercise its rights hereunder, such Lender shall have no personal liability to Landlord and the sole recourse of the Landlord in seeking enforcement of its obligations under this Lease or any new lease entered into pursuant to clause (iv) below shall be to such Lender's interest in this Lease and the Premises. Upon the sale or other transfer by any Lender of its interest in the Lease or Premises, such Lender shall have no further duties or obligations hereunder. If there is a Subordination, Nondisturbance and Attornment Agreement ("SNDA") entered into between Landlord and any Lender, in the case of any conflict between this Section 36 and such SNDA, the terms of the SNDA shall govern.

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(iv) In case of the termination or rejection of this Lease as a result of any default hereunder or the bankruptcy, insolvency or appointment of a receiver in bankruptcy, Landlord shall provide prompt notice thereof to the Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. Upon written request of the Lender that is the beneficiary of the first priority security interest in the Tenant's interest under this Lease, made within forty (40) days after notice to such Lender of such rejection or termination, Landlord shall enter into a new lease agreement with such Lender, or its designee or assignee, within twenty (20) days after the receipt of such request. Such new lease agreement shall be effective as of the date of the termination or rejection of this Lease, upon the same terms, covenants, conditions and agreements as contained in this Lease for the remaining term of the original Lease before giving effect to such termination or rejection. Landlord shall have no rights to terminate such new lease based upon defaults occurring prior to the execution of the new lease. Landlord hereby agrees with and for the benefit of the Lenders that the provisions of this subsection shall survive termination, rejection or disaffirmation of the Lease, whether by default or as a result of the bankruptcy, insolvency or appointment of a receiver in bankruptcy and shall continue in full force and effect thereafter to the same extent as if this subsection were a separate and independent instrument. It is the intent of the parties hereto that any such new lease shall have the same priority as this Lease.

(c) There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease or the leasehold estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons (including the Lenders) having an interest in the Lease or in the estate of Landlord and Tenant shall join in a written instrument effecting such merger and shall duly record the same.

(d) Landlord shall, at Tenant's or a Lender's request, but at no cost to Landlord, provide to Tenant and such Lender (i) confirmation that such Lender is a "Lender" for purposes of this Lease, (ii) a consent and estoppel acknowledging the Lender's mortgage or other lien or encumbrance, confirming the continuing effectiveness of this Lease, identifying any modifications hereto and any breaches or defaults hereunder, and containing such other information and agreements as Tenant or such Lender may reasonably request, and (iii) such other certificates or affidavits as Tenant, such Lender or any title company selected by either Tenant or such Lender may reasonably request. Landlord shall duly execute and return same to Tenant and/or Lender within ten (10) days of Tenant's or Lender's request therefor. Should Landlord fail to timely execute and deliver the consent and estoppel, then Tenant and/or Lender may rely on the contents thereof and the consent and estoppel shall be conclusively binding upon Landlord.

36. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

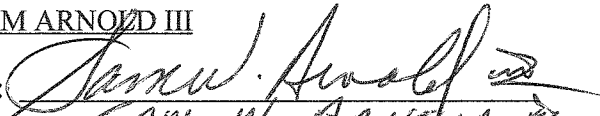
[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

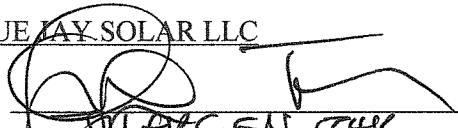
LANDLORD:

SAM ARNOJD III

By: 
Name: SAM W. ARNOJD III
Title: OWNER

TENANT:

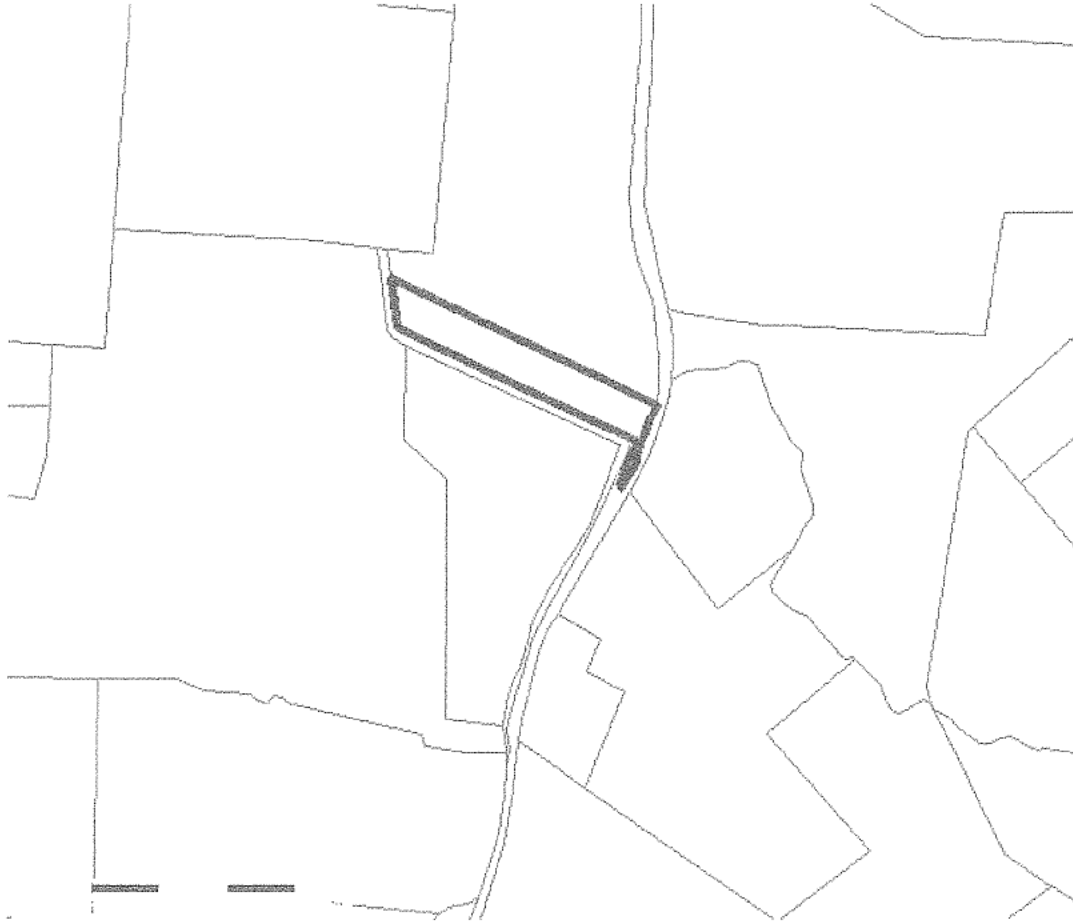
BLUE JAY SOLAR LLC

By: 
Name: JÜRGEN FEIK
Title: MANAGER

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EXHIBIT A

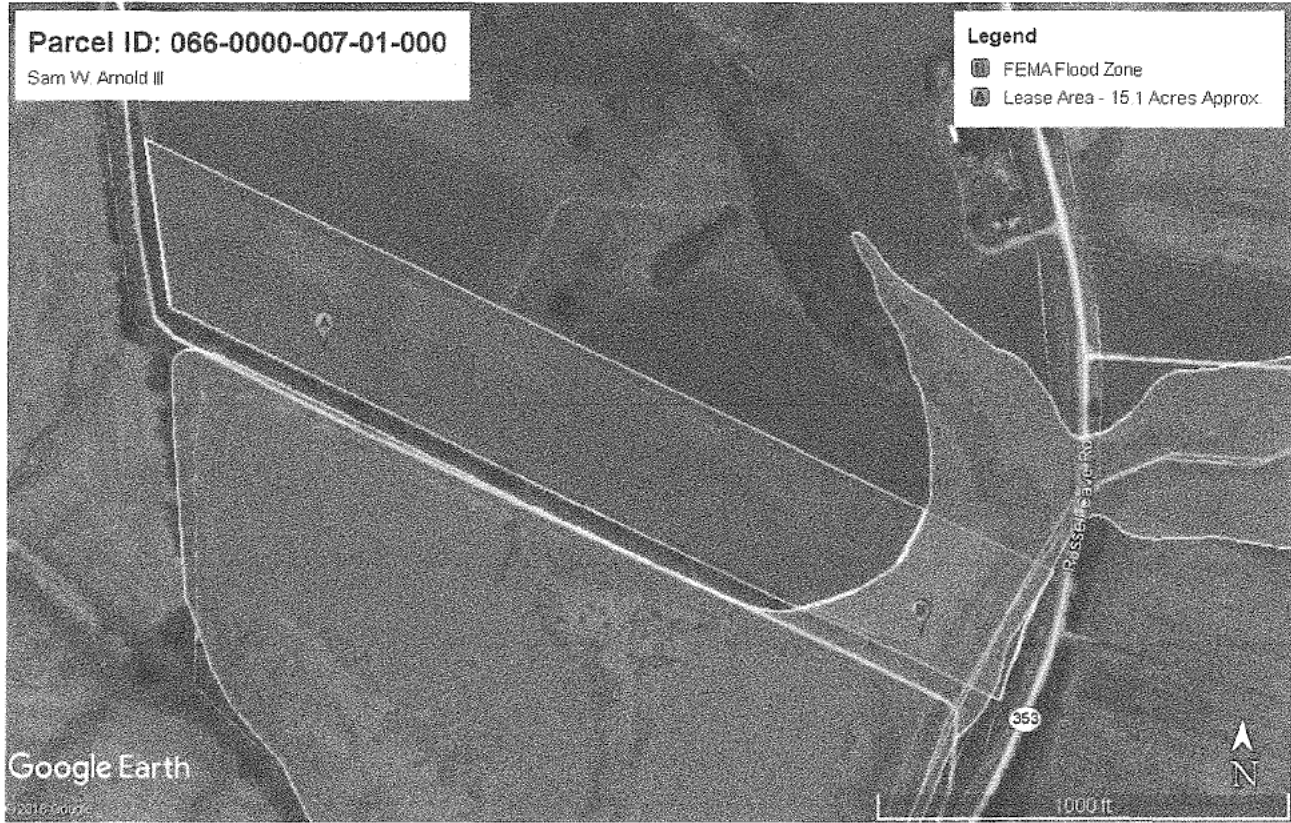
Land



Sam W. Arnold III
Parcel ID: 066-0000-007-01-000, 19 Acres
KY Hwy 353

Exhibit B

Premises



Sam W. Arnold III
Parcel ID: 066-0000-007-01-000, 19 Acres
KY Hwy 353

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 28 day of September, 2016 (the "Effective Date"), by and between Troy L. and Mary Ware Bradford (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion of that certain property with Parcel ID No. of 066-000-005-00-000, containing approximately 272 acres, located at 2964 Ky Hwy 353, Cynthiana, Ky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon except for approximately five (5) acres of land containing a house and metal barn (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED], Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written

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notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) Two hundred (200) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated. All rent payments due to the Landlord under this lease will be made to Bradford Backcreek Farms Inc.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED].

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable

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agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "**Notice of Proceeding**") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "**Farm Rent Offset**"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Landlord may identify to the Tenant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior

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to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tenant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between Landlord and Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the

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Premises by Tenant (but excluding any “roll-back” taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant’s use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant’s use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant’s sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant’s judgment, the remainder of the Premises is not suitable for Tenant’s purposes (herein called a “Total Taking”), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a “Partial Taking”), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant’s leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant’s business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such

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documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof except that, in the event of Termination within [REDACTED] after the Rent Commencement Date, any fence marking the boundary of the Landlord's property that is removed by the Tenant will be restored. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the

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Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: Troy L. and Mary Ware Bradford
2252 Ky Hwy 32 W
Cynthiana, Ky. 41031

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

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or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight

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that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or

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in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

- (i) An exclusive easement for electrical interconnection purposes;
 - (ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;
 - (iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;
 - (iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and
 - (v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).
- (b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.
- (c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).
- (d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated

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at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KYDOT standards.

28. Landlord's Access. Landlord hereby reserves for itself the right to access adjoining property owned by Landlord that would not have access to a public roadway otherwise over a twenty foot (20') wide path over the Premises in a location to be determined by Tenant (the "**Landlord Access**") subject to the terms of this Section 28. Tenant shall also have the right to use the Landlord Access for the benefit of the Premises. Landlord shall only use the Landlord Access for the benefit of Landlord's adjoining property as currently being used and such access shall only commence after the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Notwithstanding anything to the contrary, Tenant may consent in writing, such consent not to be unreasonably withheld, to Landlord's use of the Landlord Access for specific tasks of limited duration prior to the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Landlord shall not use the Landlord Access in any manner that interferes with Tenant's operations pursuant to this Lease or enjoyment of Tenant's rights granted under this Lease. Landlord shall promptly restore any damage caused by Landlord's use of the Landlord Access. Tenant shall install a gate on such Landlord Access. After Landlord's right to use the Landlord Access commences, Tenant shall provide Landlord a copy of any key to the gate, and Landlord may use the gate but shall keep such gate closed and locked at such times as Landlord is not using the Landlord Access. Additionally, Landlord shall be solely responsible, at Landlord's sole cost and expense, for the maintenance, repair, replacement, and improvement of the Landlord Access. Landlord shall perform all such maintenance, repair, replacement, and improvement in a good and workmanlike manner that minimizes interference with Tenant's operations pursuant to the Lease or Tenant's rights granted pursuant to the Lease. Tenant, at Tenant's sole cost and expense, may relocate the Landlord Access as desirable for the use of the Premises so long as the relocation reasonably allows Landlord continued access to its adjoining property.

29. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the

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terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

Troy L. Bradford

By: _____
Name: Troy L. Bradford
Title: _____

LANDLORD:

Mary Anne Bradford

By: _____
Name: MARY ANNE BRADFORD
Title: _____

TENANT:

[Signature]
By: _____
Name: SURGAW FELM
Title: MANAGER

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EXHIBIT A

Premises



Troy L. and Mary Ware Bradford
Parcel ID 066-0000-005-00-000, 272.26 Acres
Approximately 267 net

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 28 day of September, 2016 (the "Effective Date"), by and between Jerry Thomas and Charlene M. Dawson (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion amounting to approximately 82 acres of that certain property with Parcel ID No. of 066-0000-002-00-000, containing approximately 104.91 acres, located at 491 Allen Pike, Cynthiana, Ky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED], Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written

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notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: eighty - two (82) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant

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must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "**Notice of Proceeding**") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "**Farm Rent Offset**"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre for tobacco and [REDACTED] per acre for other crops, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Landlord may identify to the Tenant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed

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prior to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tenant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between the Landlord and the Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the

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Premises by Tenant (but excluding any “roll-back” taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant’s use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant’s use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant’s sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant’s judgment, the remainder of the Premises is not suitable for Tenant’s purposes (herein called a “Total Taking”), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a “Partial Taking”), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant’s leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant’s business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such

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documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof except that in the event of Termination within [REDACTED] after the Rent Commencement Date, any fence marking the boundary of the Landlord's property that is removed by the Tenant will be restored. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the

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Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: Jerry Thomas and Charlene M. Dawson
819 New Lair Road
Cynthiana, Ky. 41031

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLC
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

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or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight

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that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or

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in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

- (i) An exclusive easement for electrical interconnection purposes;
 - (ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;
 - (iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;
 - (iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and
 - (v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).
- (b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.
- (c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).
- (d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated

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at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

28. Section Deleted

29. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and

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proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: JERRY T. DAWSON
Name: Jerry T. Dawson
Title: _____

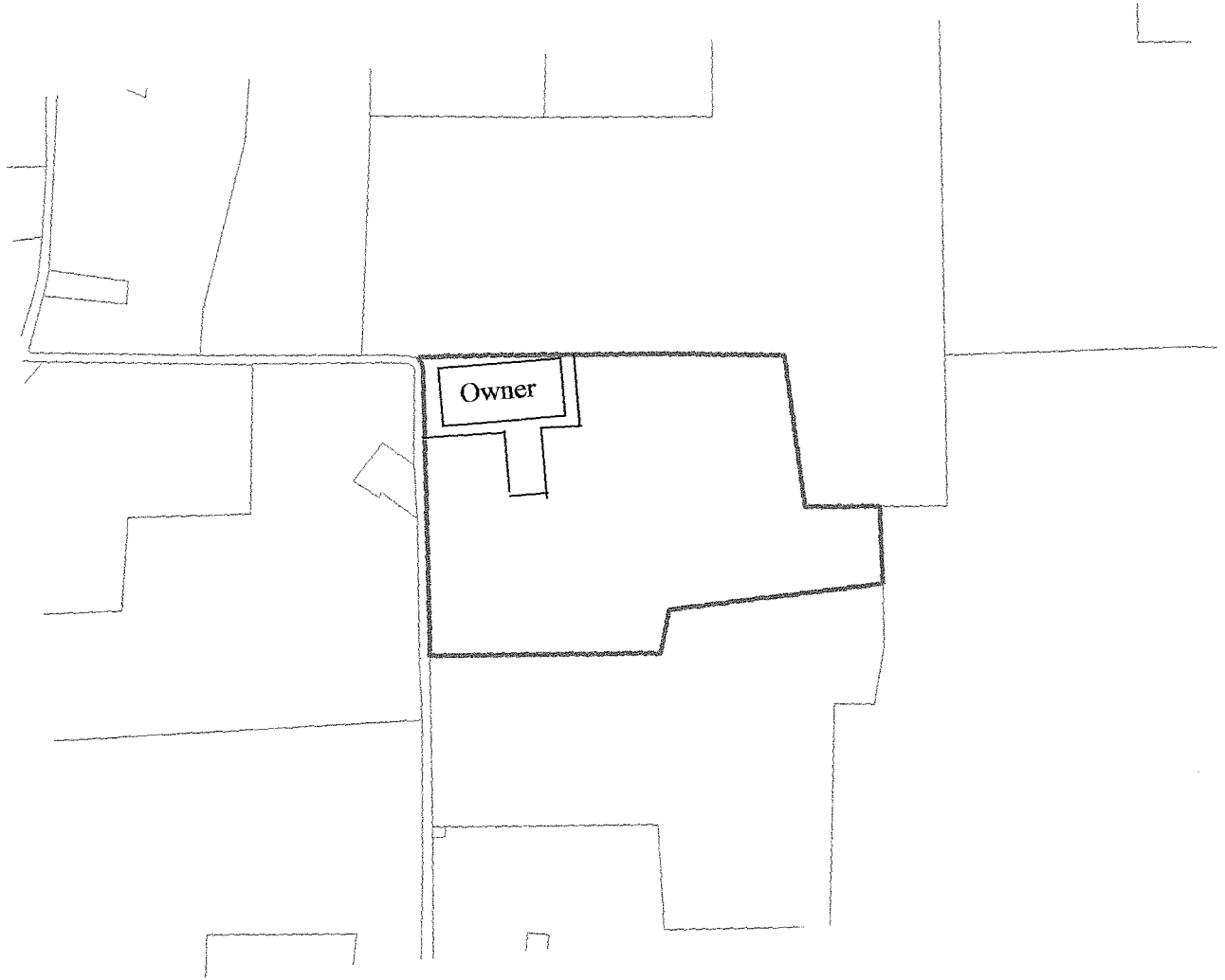
LANDLORD:

By: Charlene Dawson
Name: Charlene Dawson
Title: _____

TENANT:

By: [Signature]
Name: JURGEN DEW
Title: MANAGER

Exhibit A



Tax Map 066-0000-002-00-000

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 7th day of November, 2016 (the "Effective Date"), by and between William R. Hilliard Jr. (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, that certain property with Parcel ID No. of 066-0000-006-00-000, containing approximately 140.36 acres, located at 2576 KY Hwy 353, Cynthiana, KY 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent. the obligation to restore the Premises set forth in Section 13. and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED] Tenant shall have the right, in Tenant's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

For the purposes of this Lease, the Premises shall be the entire parcel ID No. 066-0000-006-00-000 as shown in Exhibit A. All payment amounts based on acreage shall be adjusted to the greater of either: (i) one hundred and twenty (120) acres, or (ii) the amount of acreage of the Premises actually utilized by the Tenant.

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2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable

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extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the same is due hereunder, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "**Notice of Proceeding**") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "**Farm Rent Offset**"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Landlord may identify to the Tennant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tennant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between the Landlord and the Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions,

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improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment,

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the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default.

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13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), the Tenant shall be a Tenant from month to month and Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations

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under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgment of receipts, addressed to:

To Landlord: William R. Hilliard Jr.
1265 Hughes Lane
Lexington, Ky. 40511

And to:
Guy M. Gress
Gress Mathingly + Atchison PSC
201 West Sherd ST.
Lexington, Ky 40507

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLC
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such

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beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in

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or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

(i) An exclusive easement for electrical interconnection purposes;

(ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;

(iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;

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(iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and

(v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises provided the Tenant shall terminate such easements upon termination of this Lease. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

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28. This section Deleted

29. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

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33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

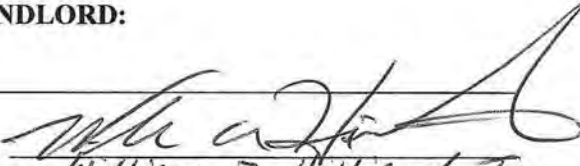
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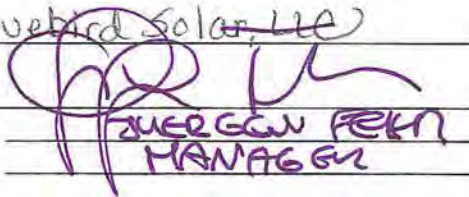
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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: 
Name: William R. Hilliard, Jr.
Title: Owner

TENANT:

Bluebird Solar, LLC
By: 
Name: EMERGEN FELT
Title: MANAGER

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Exhibit A



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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 31st day of December, 2020 (the "Effective Date"), by and between Douglas Hines, and wife Sara Hines (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord within ten (10) days of full execution (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion approximately 102 acres of that certain property with Parcel ID No. of 080-0000-002-02-000, containing approximately 108 acres, located at Townsend Valley Road, Cynthiana, KY 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the portion of the Land delineated in the Survey and shown on Exhibit B attached hereto and by this reference made a part hereof, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

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(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any improvements related to the Intended Use (as defined herein) or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners Tenant shall have the right, in Tenant's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense and without disturbance of ongoing farming activities) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than ten (10) contiguous acres, and (ii) Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for

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purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) twenty five (25) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount and Landlord shall provide notice to Tenant of such delinquency but such notice shall not excuse Tenant from paying the fee in this Section.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "Notice of Proceeding") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement

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Date (the "Farm Rent Offset"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre of hay, [REDACTED] per acre of soy beans, and [REDACTED] of corn in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. After the date of the Notice of Proceeding, Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between Landlord and Tenant; provided however, Landlord shall be permitted to harvest locust trees on the Premises at any time between the Effective Date and receipt of the Notice of Proceeding and shall retain all of the proceeds thereof. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

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7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant and subject to approval of Tenant's financing, if any, for its Intended Use.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

(d) All policies of insurance provided for herein shall name the Landlord as an additional insured, and shall provide that they may not be cancelled by the insurer for nonpayment of premiums or otherwise or be terminated or lapse of their own accord or by their own terms until at least thirty (30) days (or at least ten (10) days in the event of non-payment of premiums) after service by registered or certified mail of notice of the proposed cancellation upon all parties named in such policies as insureds. Upon request, Tenant shall deliver to Landlord copies of the policies for all the insurance required to be carried by Tenant under this Lease, or certificates evidencing the existence and the amounts of such insurance, or renewals of them or binders to them.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty.

(a) In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to the Landlord. The proceeds of

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any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

(b) The Tenant hereby assumes all risk for damage to goods, wares and equipment in or upon said Premises during the term hereof from every source whatever and for injuries to persons in or about said Premises from any cause; and agrees to hold the Landlord harmless from any and all claims, suits, actions, damages or causes of action, all costs, counsel fees, and expenses including costs of any investigations, and the defense of any proceeding or action brought thereon for injury to persons or damage to property or loss of life sustained in, on or about said Premises or appurtenances thereto, excepting such damage, injury or claim as shall result from the willful act or omission of the Landlord; and agrees to further save harmless the said Landlord from any orders, judgments or decrees that may be entered in any such suit or action. Legal costs shall be paid by Landlord if Landlord is responsible.

(c) Notwithstanding anything to the contrary in this Lease, Landlord agrees it will apply all insurance proceeds received as a result of the events referred to in subsection 9 above to restore the Premises to its condition at the time of the commencement of this Lease.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

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11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations, both above ground and below ground to a depth of 4 feet, to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, module supports, concrete pads and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord. Tenant will provide soil sample reports from a private consultant showing soil in areas of possible contamination on the location is free of heavy metals and other hazardous contaminants, with list of analytes determined by the content of the products and equipment that could have contributed to contamination, but must include lead, cadmium, arsenic, selenium, and the presence of PFAS compounds.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

The removal and restoration shall be completed in a manner that is materially similar to the template decommissioning plan attached hereto as Exhibit C (the "Template Decommissioning Plan") and in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord; provided, however, that to the extent applicable laws and regulations conflict with the Template Decommissioning Plan, Tenant shall comply with such laws and regulations in lieu of the applicable portion of the Template Decommissioning Plan except that the amount of security deposit (in

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the form of a bond or other form required by the governmental entity) deposited by Tenant shall, after giving credit to any security deposit deposited with a governmental entity, be the greater of (1) the amount of security deposit required by the governmental entity or (2) the amount as calculated in the Template Decommissioning Plan which shall calculate the Decommissioning Cost Estimate at the amount per acre noted in Section 3.1 of said Decommissioning Plan. Prior to the Rent Commencement Date, the Template Decommissioning Plan shall be finalized, and Landlord and Tenant agree to amend this agreement to replace Exhibit C with the completed Decommissioning Plan.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment; provided however, that any assignee shall be: (a) a fully owned subsidiary of Tenant; (b) a regulated utility; (c) a renewable energy company with assets under management with a cumulative capacity of at least [REDACTED] and a Net Worth equal to or greater than [REDACTED] ("Permitted Assignee"). Any assignment to a party other than a Permitted Assignee shall require Landlord written consent. After an assignment or sublease, the successor shall immediately be bound by all terms, conditions, and obligations of this Agreement, including the terms in the Template Decommissioning Plan and shall provide written notice of such to Landlord within five (5) days of the assignment.

16. Indemnifications.

(a) Tenant shall defend, indemnify, protect and hold harmless Landlord, and its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Landlord (collectively, including Landlord, the "Landlord Parties") from and against all claims, demands, liabilities, losses, damages, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "Claims") suffered or incurred by any of the Landlord Parties as a result of or arising out of: (a) any acts, omissions or negligence of Tenant, its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Tenant (collectively, including Tenant, the "Tenant Parties") in connection with Tenant Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Landlord Party, or (b) a breach of this Lease by Tenant that remains uncured after any applicable notice and cure period. Notwithstanding the foregoing, the Landlord Parties hereby waive any Claims against the Tenant Parties for damage or injury suffered by the Landlord Parties arising as a result of any audible or electromagnetic noise, vibration, electrical interference and radio frequency interference attributable to the Tenant Parties' operations on the Premises or any other property, provided that nothing herein shall be deemed to release Tenant from its obligation to defend, indemnify, protect and hold harmless the Landlord Parties from third party claims under the first sentence of this Section 17(a). The Tenant Parties shall not be liable for losses of rent, business opportunities, profits or any other consequential damages that may result from the conduct of Tenant Parties' uses of or operations on the Premises.

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(b) Landlord shall defend, indemnify, protect and hold harmless the Tenant Parties from and against any and all Claims suffered or incurred by any of the Tenant Parties as a result of or arising out of: (a) any acts, omissions or negligence of any of the Landlord Parties in connection with Landlord Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, (b) the condition of the Premises that Landlord has knowledge of, or after reasonable inquiry, should have knowledge of, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, or (c) a breach of this Lease by Landlord that remains uncured after any applicable notice and cure period.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: Douglas and Sara Hines
679 Townsend Valley Road
Paris, KY 40361

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's and Landlord's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

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21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term, unless the encumbrance is unconditionally subordinate to this Lease;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

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(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded except for an existing farming lease to be terminated which shall be terminated within 30 days of the Notice of Proceeding.

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Ownership of Solar Energy and Attributes; Tax Credits and Incentives. Landlord hereby acknowledges and agrees that Landlord shall have no ownership or other interest in (and Tenant is the sole and exclusive owner of) the solar farm and all related generation, transmission and interconnection facilities (the "Energy Facilities") installed on the Premises or any environmental attributes produced therefrom, including, without limitation, any and all federal, state and/or local benefits and credits (including tax credits, investment credits, carbon credits, solar energy credits), rebates, incentives, benefits, emissions reductions, entitlements, reporting rights, deductions, depreciation, offsets and allowances of any kind, howsoever entitled, attributable to the solar farm and its related facilities or the electric energy, generation capacity or other generator-based products produced therefrom, whether in effect as of the date of this Lease or as may come into effect in the future.

27. Easements.

(a) Intentionally Omitted.

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(b) Intentionally Omitted.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Premises (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any variances or other approvals required by Tenant to operate the Premises for the Intended Use. Landlord and Tenant acknowledge that an ordinance for the county in which the Premises is located permits solar farms on agricultural land, subject to the terms and conditions of such ordinance.

28. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

29. Landlord's Access. Landlord hereby reserves for itself the right to access adjoining property owned by Landlord that would not have access to a public roadway otherwise over a twenty foot (20') wide path over the Premises in a location to be determined jointly by Tenant and Landlord and be acceptable to both parties (the "Landlord Access") subject to the terms of this Section 29. Tenant shall also have the right to use the Landlord Access for the benefit of the Premises. Landlord shall only use the Landlord Access for the benefit of Landlord's adjoining property as currently being used and such access shall only commence after the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Notwithstanding anything to the contrary, Tenant may consent in writing, such consent not to be unreasonably withheld, to Landlord's use of the Landlord Access for specific tasks of limited duration prior to the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Landlord shall not use the Landlord Access in any manner that interferes with Tenant's operations pursuant to this Lease or enjoyment of Tenant's rights granted under this Lease. Landlord shall promptly restore any damage caused by Landlord's use of the Landlord Access. Tenant shall install a gate on such Landlord Access. After Landlord's right to use the Landlord Access commences, Tenant shall provide Landlord a copy of any key to the gate, and Landlord may use the gate but shall keep such gate closed and locked at such times as Landlord is not using the Landlord

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Access. Additionally, Landlord shall be solely responsible, at Landlord's sole cost and expense, for the maintenance, repair, replacement, and improvement of the Landlord Access. Landlord shall perform all such maintenance, repair, replacement, and improvement in a good and workmanlike manner that minimizes interference with Tenant's operations pursuant to the Lease or Tenant's rights granted pursuant to the Lease. Tenant, at Tenant's sole cost and expense, may relocate the Landlord Access as desirable for the use of the Premises so long as the relocation reasonably allows Landlord continued access to its adjoining property.

30. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 30; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 30.

31. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

32. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

33. Counterparts and Email/PDF. This Lease may be executed in counterpart or by emailing .pdf or other compressed digital files, or any combination of the foregoing. All counterparts together shall constitute one and the same Lease.

34. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed

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purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

35. Leasehold Financing.

(a) Tenant, any successor or assignee of Tenant, or any holder of a sublease or license (each hereinafter sometimes referred to as an "**Obligor**") may at any time mortgage, pledge, or encumber to any entity (herein, a "**Lender**") all or any portion of the Obligor's rights and interests under this Lease or such sublease or license, in each case without the consent of Landlord. For purposes of this Lease, each entity which now or hereafter is the recipient or beneficiary of any such mortgage, pledge, or encumbrance and whose lien or encumbrance is now or hereafter recorded in the official records of the County in which the Premises is located, shall be referred to in this Lease as a "**Lender**".

(b) Tenant and Landlord expressly agree between themselves and for the benefit of any Lenders, that if an Obligor mortgages, pledges, or encumbers any of its rights and interests as provided in subsection (a) above, then notwithstanding any other provision of this Lease to the contrary:

(i) Landlord and Tenant will not terminate, suspend, amend or modify, or take any action causing, consenting to, acquiescing in, or accepting the termination, suspension, amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Lender hereunder or impair or reduce the security for any lien held by such Lender, without such Lender's consent.

(ii) Each Lender shall have the right, at its discretion, to take, or cause to be taken, any action required to be performed under this Lease by the Obligor that is party to such Lender's mortgage, pledge or encumbrance, and any such action performed by such Lender shall be as effective to prevent or cure a default under this Lease and/or a forfeiture of any of such Obligor's rights under this Lease as if done by such Obligor itself.

(iii) The right of a Lender to receive notices and to cure Obligor's defaults pursuant to the provisions of this subsection (b) shall be available only to those Lenders which shall have notified Landlord in writing of their name and address, regardless of whether the specific provision in question expressly so states. No default which requires the giving of notice to Obligor shall be effective unless a like notice is given to all Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. If Landlord shall become entitled to terminate this Lease due to an uncured default by Obligor, Landlord will not terminate this Lease unless it has first given written notice of such uncured default and of its intent to terminate this Lease to each Lender which has previously notified Landlord in writing of their name and address and has expressly requested such notice, and has given each Lender at least thirty (30) days after the expiration of the cure period which this Lease provides to Obligor for curing such default, to cure the default to prevent such termination of this Lease. Furthermore, if within such thirty (30) day period a Lender notifies Landlord that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Lease in order to cure the default, Landlord shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor. In the event a Lender shall elect to exercise its rights hereunder, such Lender shall

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have no personal liability to Landlord and the sole recourse of the Landlord in seeking enforcement of its obligations under this Lease or any new lease entered into pursuant to clause (iv) below shall be to such Lender's interest in this Lease and the Premises. Upon the sale or other transfer by any Lender of its interest in the Lease or Premises, such Lender shall have no further duties or obligations hereunder. If there is a Subordination, Nondisturbance and Attornment Agreement ("SNDA") entered into between Landlord and any Lender, in the case of any conflict between this Section 36 and such SNDA, the terms of the SNDA shall govern.

(iv) In case of the termination or rejection of this Lease as a result of any default hereunder or the bankruptcy, insolvency or appointment of a receiver in bankruptcy, Landlord shall provide prompt notice thereof to the Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. Upon written request of the Lender that is the beneficiary of the first priority security interest in the Tenant's interest under this Lease, made within forty (40) days after notice to such Lender of such rejection or termination, Landlord shall enter into a new lease agreement with such Lender, or its designee or assignee, within twenty (20) days after the receipt of such request. Such new lease agreement shall be effective as of the date of the termination or rejection of this Lease, upon the same terms, covenants, conditions and agreements as contained in this Lease for the remaining term of the original Lease before giving effect to such termination or rejection. Landlord shall have no rights to terminate such new lease based upon defaults occurring prior to the execution of the new lease. Landlord hereby agrees with and for the benefit of the Lenders that the provisions of this subsection shall survive termination, rejection or disaffirmation of the Lease, whether by default or as a result of the bankruptcy, insolvency or appointment of a receiver in bankruptcy and shall continue in full force and effect thereafter to the same extent as if this subsection were a separate and independent instrument. It is the intent of the parties hereto that any such new lease shall have the same priority as this Lease.

(c) There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease or the leasehold estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons (including the Lenders) having an interest in the Lease or in the estate of Landlord and Tenant shall join in a written instrument effecting such merger and shall duly record the same.

(d) Landlord shall, at Tenant's or a Lender's request, but at no cost to Landlord, provide to Tenant and such Lender (i) confirmation that such Lender is a "Lender" for purposes of this Lease, (ii) a consent and estoppels acknowledging the Lender's mortgage or other lien or encumbrance, confirming the continuing effectiveness of this Lease, identifying any modifications hereto and any breaches or defaults hereunder, and containing such other information and agreements as Tenant or such Lender may reasonably request, and (iii) such other certificates or affidavits as Tenant, such Lender or any title company selected by either Tenant or such Lender may reasonably request. Landlord shall duly execute and return same to Tenant and/or Lender within ten (10) days of Tenant's or Lender's request therefor. Should Landlord fail to timely execute and deliver the consent and estoppel, then Tenant and/or Lender may rely on the contents thereof and the consent and estoppel shall be conclusively binding upon Landlord.

36. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:



Douglas Hines



Sara Hines

TENANT:

BLUEBIRD SOLAR, LLC, a Kentucky limited liability company

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

Douglas Hines

Sara Hines

TENANT:

BLUEBIRD SOLAR, LLC, a Kentucky limited liability company

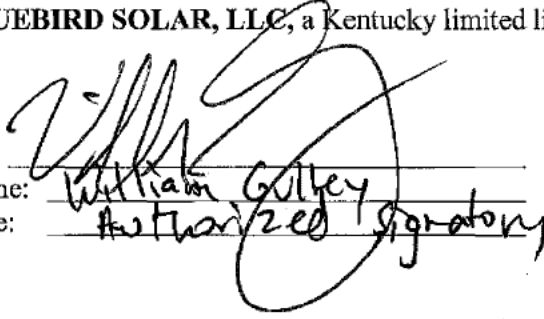
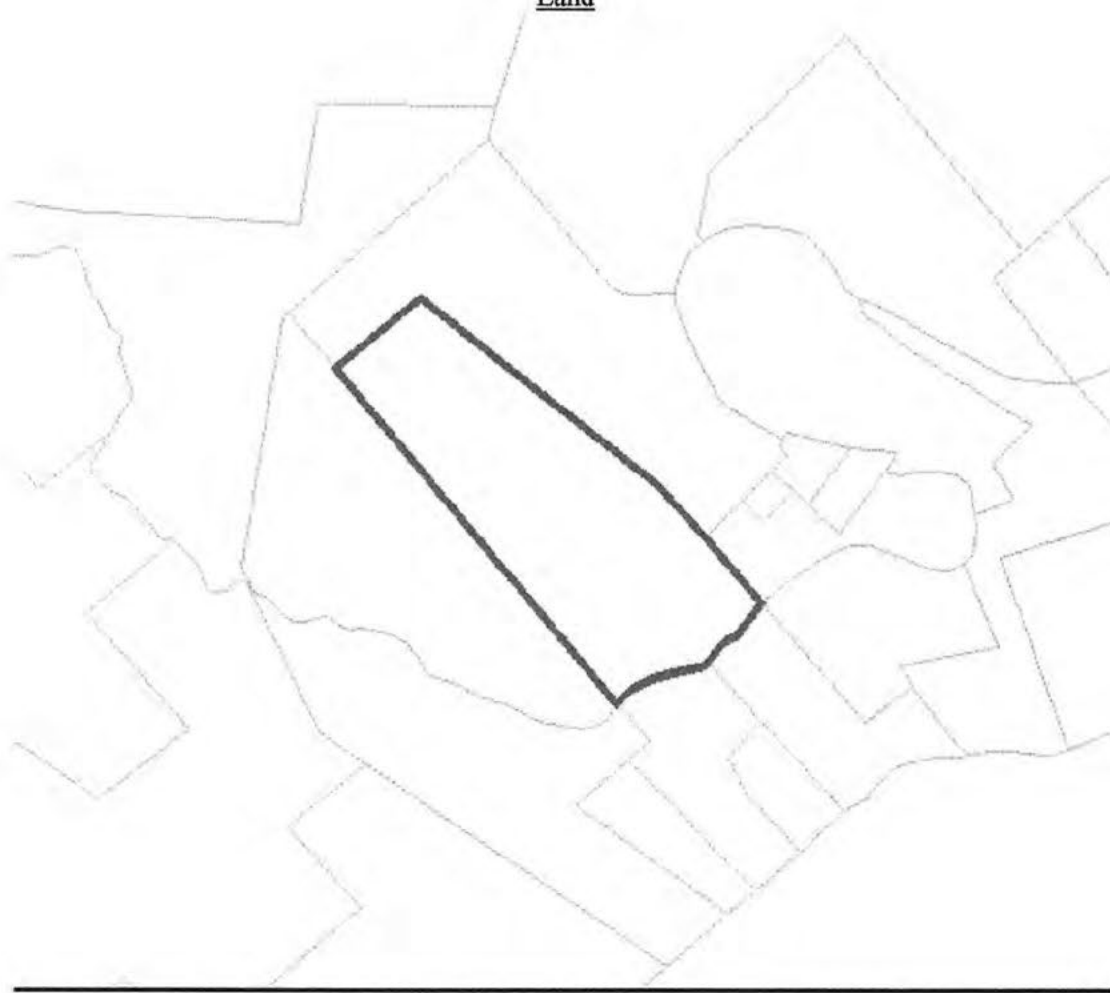
By: 
Name: William Gulley
Title: Authorized Signatory

EXHIBIT A

Land



Douglas and Sara Hines
Parcel ID: 080-0000-002-02-000
Townsend Valley Road 108 Acres

Exhibit B

Premises



Douglas and Sara Hines
Parcel ID: 080-0000-002-02-000
Townsend Valley Road 108 Acres

EXHIBIT CTemplate Decommissioning Plan**1. INTRODUCTION****1.1 Project Background**

(Project description, size, location and acreage of land use). The solar photovoltaic power array owned by (Solar Project LLC), ("**Project**"), is anticipated to operate for a period of no less than 20 years under a power purchase agreement from (Utility/Commercial-Industrial Consumer). It is anticipated that the Project will use the existing technology up to an additional (twenty years) for a total operating period of (40) years. At the completion of its operating life, the Project will either be redeveloped with modern equipment, or it will be decommissioned and removed from the site in accordance with this plan.

1.2 Objectives

The objective of this Decommissioning Plan, ("**Plan**"), is to provide the requisite financial surety to guarantee the decommissioning of the Project.

1.3 Plan Conditions:

Prior to commencing with any decommissioning activities in accordance with this Plan, (Solar Project LLC) will provide documentation to process the appropriate permit(s). If the Project is to be redeveloped, a new building plan permit will be processed before any installation of new equipment. Decommissioning the Project will allow the parcels that were changed under the Project's (CUP/SUP) to be returned to their original zone classifications.

2. DECOMMISSIONING OF FACILITY AFTER CEASING OPERATION**2.1 General Environmental Protection**

During decommissioning and restoration activities, general environmental protection and mitigation measures will be implemented. Many activities during decommissioning will be comparable to the construction phase, including the use of heavy equipment on site, preparing staging areas, and restoring constructible areas.

2.2 Pre-Decommissioning Activities

Prior to engaging in decommissioning activities, (Solar Project LLC) will provide documentation to process the appropriate permits in accordance with all relevant county, state and federal statutes in place at the time of decommissioning.

Prior to any decommissioning or removal of equipment, staging areas will be delineated as appropriate. At the end of the Project's useful life, it will first be de-energized and isolated from all external electrical lines. All decommissioning activities will be conducted within designated areas; this includes ensuring that vehicles and personnel stay within the demarcated areas. Work to decommission the collector lines and Project-owned transmission lines will be conducted within the boundaries of the municipal road allowance and appropriate private lands.

2.3 Equipment Decommissioning and Removal

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The basic components of the Project are photovoltaic (PV) modules, mechanical racking system, electrical cabling, inverter racks, transformers and concrete pads as described below.

- **Modules:** The modules will be removed by hand and placed in a truck to be returned for recycling or disposal as described below in section 2.4.
- **Mechanical racking system:** will be removed with an excavator with a demolition thumb. The recyclable metal will be loaded on trucks and hauled away in accordance with section 2.9.
- **Inverters Racks and Inverters:** The inverters and its racks will be removed by hand and loaded on trucks for recycling in compliance with section 2.5.
- **Transformers:** Transformers will be removed in compliance with section 2.5 and then loaded on to a truck with a crane and sent for recycling.
- **Concrete pads:** The equipment will be disconnected and transported off site by truck. The concrete foundations and support pads will be broken up by mechanical equipment (backhoe-hydraulic hammer/shovel, jackhammer), loaded onto dump trucks and removed from the site. Smaller pre-cast concrete support pads and/or pre-manufactured metal skids will be removed intact by cranes and loaded onto trucks for reuse, or will be broken up and hauled away by dump trucks.

2.4 PV Module Collection and Recycling

All modules will be disconnected, removed from the trackers, packaged and transported to a designated location for resale, recycling or disposal. Any disposal or recycling will be done in accordance with applicable laws and requirements. The connecting underground cables and the junction boxes will be de-energized, disconnected, and removed. The mechanical racking system supporting the PV modules will be unbolted and dismantled by laborers using standard hand tools, possibly assisted by small portable cranes. All support structures, both above ground and below ground to at least a depth of 4 feet will be completely removed by mechanical equipment and transported off site for salvage or reuse. Any holes or voids created by removal of supports or concrete pads will be filled in with soil to the surrounding grade. Any demolition debris that is not salvageable will be transported by truck to an approved disposal area. Other salvageable equipment and/or material will be removed for the site for resale, scrap value or disposal.

2.5 Electrical Equipment and Inverters

All decommissioning of electrical devices, equipment, and wiring/cabling will be in accordance with local, state and federal laws. Any electrical decommissioning will include obtaining required permits, and following applicable safety procedures before de-energizing, isolating, and disconnecting electrical devices, equipment and cabling.

Decommissioning will require the removal of the electrical equipment, including inverters, transformers, underground/aboveground cables and overhead lines. Equipment and material may be salvaged for resale or scrap value depending on the market conditions.

2.6 Roads, Parking Area

All access roads and the parking area will be removed to allow for the complete rehabilitation of these areas unless the landowner provides written consent to retain these features. Typically, the granular base covering of these areas will be removed using a wheel loader to strip off the material and dump trucks to haul the aggregate to a recycling facility or approved disposal facility. The underlying subsoil, if exhibiting significant compaction (more likely for the site entrance road than the interior access roads), will then be diced using a tractor and disc attachment to restore the soil structure and to aerate the soil. Clean topsoil will be imported on site by dump truck, replaced over the area and leveled to match the existing grade.

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2.7 Other Components

Unless retained for other purposes, removal of all other facility components from the site will be completed, including but not limited to surface drains, access road cross-culverts, and fencing. Anything deemed usable shall be recovered and reused elsewhere. All other remaining components will be considered as waste and managed according to local, state, and federal laws. For safety and security, the security fence will be dismantled and removed from the site after all major components, PV modules, PV module supports, tracker system and foundations have been removed.

2.8 Site Restoration

The following activities will be undertaken to restore the site to substantially its previous condition;

- Site cleanup, re-grading to original contours and, if necessary, restoration of surface drainage swales and ditches.
- Any trenches/drains excavated by the Project will be filled with suitable materials and leveled.
- Any road, parking area will be removed completely, filled with suitable sub-grade material and leveled.
- Any compacted ground will be tilled, mixed with suitable sub-grade materials and leveled.
- Topsoil will be spread as necessary to ensure suitable conditions for vegetation re-growth and reseeded with native seed mix to promote vegetation.

The project fence and existing fire access roads may remain in place upon written consent of the landowner.

2.9 Management of Wastes and Excess Materials

1. All waste and excess materials will be disposed of in accordance with local, state and federal laws. Waste that can be recycled under municipal programs will be done accordingly. Waste that requires disposal will be disposed of in a state licensed facility by a state licensed hauler. Tenant will provide soil sample reports from a private lab showing soil in areas of possible contamination on the location is free of heavy metals and other hazardous contaminants, with list of analytes determined by the content of the products and equipment that could have contributed to contamination, but must include lead, cadmium, arsenic, selenium, and the presence of PFAS compounds.

2.10 Emergency Response and Communications Plans

During decommissioning, (Solar Project LLC) will coordinate with local authorities, the public, and others as required to provide them with information about the ongoing activities. Besides regular direct/indirect communication, signs will be posted at the Project facility to give information to the local public and visitors. The (Solar Project LLC) contact information (telephone number, email and mailing address) will be made public for those seeking more information about the decommissioning activities and/or reporting emergencies and complaints. All inquiries will be directed to the (Solar Project LLC) Representative who will respond to any inquiry. In the event of an emergency, (Solar Project LLC) will mobilize its resources to the site to respond to the event. Personnel involved in decommissioning will be trained in the emergency response and communications procedures. Emergency response procedures will be prepared prior to decommissioning.

3. PROJECT DECOMMISSIONING COST ESTIMATE

3.1 Cost Estimate:

(Solar Project LLC) shall provide a detailed Decommissioning Cost Estimate, prepared by a (State) Licensed Engineer, prior to the issuance of building permits, which shall include the following:

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- a) the gross estimated cost to perform Decommissioning as set forth in Section II above ("**Gross Cost**");
- b) an increase of the Gross Cost by 10% in order to eliminate any discrepancy in cost estimation techniques ("**Contingency**");
- c) the estimated resale and salvage values associated with the Project equipment ("**Salvage Value**");
- d) a reduction from the Salvage Value by 10% such that only 90% of the Salvage Value can be used as a credit against the Gross Cost and Admin Factor. The Salvage Value multiplied by 90% is the ("**Salvage Credit**").

Thus the Decommissioning Cost Estimate formula is:
 Gross Cost + Contingency - Salvage Credit = the "**Decommissioning Cost Estimate**".

The Decommissioning Cost Estimate shall be the greater of the amount as calculated above or the amount equal to the following:

Anniversary of Rent Commencement Date:	Amount per acre:
Rent Commencement Date:	At least [REDACTED] per acre
5 th Anniversary of Rent Commencement Date:	At least [REDACTED] per acre
10 th Anniversary of Rent Commencement Date:	At least [REDACTED] per acre

Decommissioning Cost Estimate shall include a table allocating the net cost estimate across the Project area, based on the percentage of generating capacity in megawatts (MW) on each property ("Allocation Areas"). The Allocation Areas will be divided based upon the lease areas, however Allocation Areas will reference the underlying land, in case ownership of the underlying land changes control during the life of the Project.

3.2 Security:

(Solar Project LLC) will provide an amount equal to the Decommissioning Cost Estimate (or the amount as determined by a (State) Licensed Engineer, whichever is greater, per section 3), ("**Decommissioning Security**"). Decommissioning Security shall be provided by (Solar Project LLC) starting on the Rent Commencement Date. After the tenth (10th) anniversary of the Rent Commencement Date, (Solar Project LLC) shall update the Decommissioning Security every five (5) years, which estimate shall be completed by the same Licensed Engineer or replacement engineer as Tenant may select with Landlord's consent, not to be unreasonably withheld, conditioned or delayed. Once in place, Tenant shall keep the Decommissioning Security in force throughout the remainder of the Term and Extension Terms.

The Decommissioning Security may be in one of the following forms: (i) cash to be held in escrow by the County Treasurer or a bank or title company, or (ii) a letter of credit from a financial institution reasonably acceptable to the County which shall be irrevocable unless replaced with cash or other form of security reasonably acceptable to County (each a form of "**Acceptable Credit Support**").

In the event that security similar to the Decommissioning Security is required by any governmental entity, such security shall be credited against the Decommissioning Security, and (Solar Project LLC) shall deposit the higher amount as Acceptable Credit Support, which deposit may be split into more than one deposit to the extent reasonably required under the circumstances.

(Solar Project LLC), Landlord, and, if applicable, the applicable governmental entity and bank or title company shall enter into an escrow agreement to govern the review of the work required hereunder and the disbursement of the Decommissioning Security consistent with this decommissioning plan. If the

governmental entity requires, the escrow shall be administered by such governmental entity, and if not so required, shall be administered by a bank or title company reasonably determined by (Solar Project LLC).

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 23rd day of September, 2016 (the "Effective Date"), by and between Joe Mike McDaniel (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase I Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion up to approximately 110 acres of that certain property with Parcel ID Nos. of 065-0000-024-00-000 and 065-0000-026-00-000, containing approximately 310.67 acres, located at 5415 US Hwy 62 W, Cynthia, Ky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED], Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written

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notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than twenty-five (25) contiguous acres, and (ii) Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) one hundred (100) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre of open land located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable

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agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "Notice of Proceeding") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Farm Rent Offset"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Landlord may identify to the Tenant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior to the

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date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tenant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between Landlord and Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the

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Premises by Tenant (but excluding any “roll-back” taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant’s use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant’s use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant’s sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant’s judgment, the remainder of the Premises is not suitable for Tenant’s purposes (herein called a “Total Taking”), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a “Partial Taking”), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant’s leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant’s business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such

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documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

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15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: Joe Mike McDaniel
5415 US Hwy 62W
Cynthiana, Ky. 41031

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

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20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with

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respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

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- (i) An exclusive easement for electrical interconnection purposes;
- (ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;
- (iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;
- (iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and
- (v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents,

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and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

28. Section Deleted

29. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

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32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: [Signature]
Name: 502 MIKE Mc DANIEL
Title: OWNER

By: Joyce McDaniel
Name: Joyce McDaniel
Title: spouse of owner

TENANT:

[Signature]
By: [Signature]
Name: RUSSELL FARR
Title: MANAGER

Exhibit A



Tax Map 065-0000-026-00-000 and 065-0000-024-00-000

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REAL ESTATE SWAP AGREEMENT

This Real Estate Swap Agreement (this "Agreement") is made as of the Effective Date (as defined below) by and between **BLUEBIRD SOLAR LLC**, a Kentucky limited liability company, whose principal office is located at 18575 Jamboree Road, Suite 850, Irvine, CA 92612 ("Buyer"), and **SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001, as amended pursuant to that certain AMENDMENT TO AMEND AGNES SMITH MCDOWELL CHARITABLE TRUST DATED NOVEMBER 30, 2007**, whose mailing address is 103 Court Street, Cynthiana, Kentucky 41031 ("Owner"). The latest date indicated on the signature page of this instrument shall be the "Effective Date" of this Agreement (the "Effective Date"). Each of Buyer and Owner are sometimes referred to herein as a "Party" and together, collectively, as the "Parties."

RECITALS

WHEREAS, Owner is the fee simple owner of a certain tract of land consisting of approximately one hundred twenty six (126) acres located west of Russell Cave Road (Highway 353) in Cynthiana, Harrison County, Kentucky, as described on attached **Exhibit 1**, including, without limitation, all rights, privileges, ways and easements appurtenant thereto, and together with all, if any, buildings, structures and other improvements located thereon and all fixtures attached or affixed, actually or constructively, thereto or to any such buildings, structures or other improvements (the "Owner Property"); provided that the Owner Property referenced herein shall exclude the approximately thirteen (13) acres on which Owner's residence is situated, as described on **Exhibit 1**;

WHEREAS, Buyer holds an option to purchase in fee simple, pursuant to that certain Option Agreement by and between Buyer and Patricia H. Spencer, dated October 3, 2019 (the "Option"), a certain tract of land consisting of approximately three hundred sixty three (363) contiguous acres located east of Russell Cave Road (Highway 353) in Cynthiana, Bourbon County, Kentucky, as described on attached **Exhibit 2**, including, without limitation, all rights, privileges, ways and easements appurtenant thereto, and together with all, if any, buildings, structures and other improvements located thereon and all fixtures attached or affixed, actually or constructively, thereto or to any such buildings, structures or other improvements (collectively, the "Buyer Property") (the Owner Property and the Buyer Property shall be collectively referred to as the "Property");

WHEREAS, Buyer desires to swap and exchange the Buyer Property for the Owner Property, and Owner desires to swap and exchange the Owner Property for the Buyer Property, which such exchange is to be simultaneous with and contingent upon the closing of the Buyer Property by Buyer in accordance with the Option;

WHEREAS, it is herein acknowledged and agreed by and between Buyer and Owner that the fair market value of the Owner Property is estimated to be less than the fair market value of the Buyer Property, however, Buyer believes it is in its best interest to make this exchange and Buyer desires to treat any variances in the fair market values as a charitable donation to Owner; and

WHEREAS, the Parties do now desire to reduce their agreement to writing and to formally document and carry out their understanding as herein provided.

NOW, THEREFORE, for and in consideration of the foregoing premises, and for valuable consideration, the legal adequacy and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties do covenant and agree as follows:

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AGREEMENT

1. Exchange.

(a) Upon the terms and subject to the conditions set forth herein, Buyer agrees to transfer the Buyer Property to Owner.

(b) Upon the terms and subject to the conditions set forth herein, Owner agrees to transfer the Owner Property to Buyer.

(c) Owner and Buyer agree that this exchange is not an equal exchange and that the Owner Property has an estimated fair market value of [REDACTED] per acre and the Buyer Property has an estimated fair market value of [REDACTED] per acre; however, Buyer believes it is in its best interest to consummate this exchange and Buyer desires to treat any variances in the fair market value and acreages as a charitable donation by Buyer to Owner. As a result, no monetary consideration will exchange hands between the Parties.

2. Development Period; Termination Rights.

(a) Term of Development Period. The initial development period shall commence on the Effective Date of this Agreement and shall continue for twelve (12) months thereafter (the "Initial Development Period"). Buyer shall have the right, but not the obligation, to extend the Initial Development Period by two (2) additional terms of twelve (12) months each (individually and collectively, the "Development Extension Period"). Each Development Extension Period, if exercised, shall commence on the last day of the Initial Development Period or the prior Development Extension Period, as applicable. The Initial Development Period and the Development Extension Period are hereinafter referred to collectively as the "Development Period." The Development Period shall constitute a due diligence period for Buyer. The consideration to be paid by Buyer to Owner for each component term of the Development Period is as follows (collectively, the "Development Period Payments"):

(i) No later than thirty (30) days after the Effective Date of this Agreement, Buyer shall pay to Owner an amount equal to [REDACTED] multiplied by the number of acres comprising the Owner Property, prorated for partial acres, in consideration for the Initial Development Period; and

(ii) Provided Buyer has exercised its right to the applicable Development Extension Period, no later than thirty (30) days after the commencement of the applicable Development Extension Period, Buyer shall pay to Owner an amount equal to [REDACTED] multiplied by the number of acres comprising the Owner Property, prorated for partial acres, in consideration for such Development Extension Period.

(iii) The Development Period Payments shall be non-refundable to Buyer in the event this Agreement is terminated unless Owner is in default or breach of this Agreement. Nothing contained in this Section 2(a) shall in any way limit or otherwise affect Buyer's right to terminate this Agreement at any time pursuant to Section 2(e). The Development Period Payments represents adequate bargained for consideration for Owner's execution and delivery of this Agreement, Buyer's right to conduct its due diligence investigation of the Owner Property and Buyer's right to terminate this Agreement on or before the expiration of the Development Period, as provided below, in connection with such due diligence investigation.

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(b) Diligence. During the Development Period, Buyer or its designated agents may enter upon the Property (i) without advanced notice to Owner, Monday through Friday, between 9:00 am and 7:00 pm Eastern Prevailing Time, or (ii) at any other time upon Owner's advanced written consent, to conduct, at Buyer's sole cost and expense, any inspections, tests, surveys, engineering, environmental, meteorological and/or market and economic feasibility studies, and due diligence matters related thereto as Buyer may deem necessary or convenient in its sole discretion, concerning the Property, including without limitation a Phase I Environmental Site Assessment and geotechnical studies (collectively, the "Studies"). Any activities of Buyer on the Property shall be conducted in such a manner so as to not cause any material damage to the Property and so as to not unreasonably interfere with the current use of the Property. Buyer shall be responsible for any such material damage to the Property caused by Buyer in connection with Buyer's activities on the Property. Owner shall provide Buyer, within thirty (30) days of the Effective Date, only to the extent such items are in Owner's possession or under Owner's control, copies of the following: all leases, rental agreements, reports, surveys, maps, plans, specifications, soil tests, environmental audits and assessments, reports, studies, test results, title commitments and policies, field tiling surveys, plans and other geotechnical and other site assessments, entitlement-related studies, environmental, reports, correspondence to or from any governmental agency, and other such records of Owner relating to the Owner Property. Owner represents and warrants to Buyer that, to the best of Owner's knowledge, all information contained in any such materials provided by Owner to Buyer is accurate and complete; for the avoidance of doubt, Owner shall be under no obligation to turn over any of the foregoing to the extent the same does not exist or is not in Owner's possession as of the Effective Date.

(c) Searches and Surveys. The Parties acknowledge receipt of the ALTA title insurance commitments for the Property along with copies of all recorded instruments designated in such title commitments as exceptions or exclusions from coverage (collectively, the "Title Commitments") (attached hereto as **Exhibits 3 and 4**, respectively), issued by or on behalf of Stewart Title Guaranty Company (the "Title Company") committing to issue at Closing respective ALTA Owner's Policies of Title Insurance (collectively, the "Title Policy"), in the amount of the fair market value of each of the Owner Property and Buyer Property insuring Buyer's marketable fee simple title to the Owner Property and interests in the Easements, and insuring Owner's marketable fee simple title to the Buyer Property, including all appurtenances thereto and improvements thereon, and including such additional title endorsements in form and content as each Party may reasonably request, including any title endorsements relating to each of the Property mineral rights. Further, each Party acknowledge receipt of a new or updated survey of each Property (collectively, the "Surveys") (attached hereto as **Exhibits 5 and 6**, respectively). Neither the Buyer nor Owner has any objections to the matters shown in the Title Commitments and the Surveys and all such matters shall be deemed "Permitted Liens." However, Buyer hereby notifies Owner of its objection to third-party occupants of the Owner Property and Owner hereby has elected to cure this objection in accordance with the terms of Section 6(a) hereof. For the avoidance of doubt, the foregoing objection to third-party occupants shall not alter or limit Owner's ability to continue allowing third parties to utilize the Owner Property as disclosed pursuant to Section 6(a) prior to Closing. The Surveys shall be used as the basis for the preparation of the legal descriptions to be included in the special warranty deeds to be exchanged by the parties at Closing.

(d) Title Defects/Objections. If either Party learns, through title updates or other written evidence, of any title defects that they find objectionable or to which it believes it is not required to accept title, such Party shall give written notice thereof to the other Party within five (5) Business Days after the date of learning of same (the "Title Objection Notice"). The other Party shall have the right, but not the obligation, to cure, or attempt to cure, such objections. Within five (5) Business Days after the Title Objection Notice has been delivered, the other Party shall notify the objecting Party in writing whether it has elected to cure such objections. If the other Party fails to give the objecting Party such notice of election, then the other Party shall be deemed to have elected to cure such objections. If the other Party elects to attempt to cure any such objections it shall have a thirty (30) day period from the delivery of the Title

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Objection Notice (the "Cure Period") to effectuate a cure of such objections. If the other Party elects not to attempt to cure any objections specified in the Title Objection Notice, or if the other Party cannot cure same during the Cure Period, then the objecting Party shall have the following options: (i) to accept a conveyance of the applicable Property subject to any matter objected to; or (ii) to terminate this Agreement by giving written notice thereof to the other Party and, upon delivery of such notice of termination, this Agreement shall terminate, and thereafter neither Party hereto shall have any further rights, obligations or liabilities hereunder except to the extent that any right, obligation or liability set forth herein expressly survives termination of this Agreement. The term "Business Day" shall mean any day on which federally insured banks in the Commonwealth of Kentucky are not authorized or required to be closed under applicable law.

(e) **Buyer's Right of Termination.** During the Development Period, Buyer shall have the absolute right to terminate this Agreement, in Buyer's sole discretion, effective upon written notice to Owner of Buyer's election to so terminate (a "Termination Notice"), whereupon neither of the Parties hereto shall have any further rights or obligations hereunder whatsoever, except for those provisions which by their express terms survive the Closing or the earlier termination of this Agreement. If Buyer shall fail to timely deliver a Termination Notice to Owner, then Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section and elected to continue this Agreement. Notwithstanding the timely termination of this Agreement by Buyer, Buyer shall reimburse Owner for its reasonable out of pocket costs and expenses incurred in obtaining the Approvals Relating to the Trust (as defined herein) as contemplated by Sections 6(b) and (c) hereof, provided, a Termination Notice is delivered to Owner after the submission of this Agreement to the appropriate persons or entities for the Approvals Relating to the Trust. Notwithstanding the foregoing, each Party shall have the right to terminate this Agreement in the event their respective contingencies and conditions precedent contained herein are not satisfied or waived as of the Closing Date.

3. Closing. The closing of the exchange contemplated under this Agreement (the "Closing") shall occur on or before 5:00 p.m. Eastern Prevailing Time, within ninety (90) days following Buyer's written notification to Owner of the satisfaction of all conditions precedent to Buyer's obligations under Section 4 of this Agreement (the "Closing Date"), at the offices of the Title Company. Each Party shall have the option to extend the Closing for an additional thirty (30) days upon providing written notice to the other Party of its exercise of such extension option no later than five (5) Business Days prior to the initial Closing Date. Closing shall take place through a so-called "mail-away" closing, it being understood that neither Owner nor Buyer nor their respective counsel need be physically present at Closing so long as all documents that are required to be delivered at Closing are fully executed, delivered in escrow to the Title Company and available on the date of the Closing.

4. Buyer's Contingencies. Buyer's obligation to conclude this exchange is contingent upon the following:

(a) **Title.** On the Closing Date, Owner shall convey, by special warranty deed (the "Owner Deed"), to Buyer marketable and insurable fee simple title to the Owner Property, free from any (i) mortgage, deed to secure debt, deed of trust, security agreement, judgment, lien or claim of lien, or any other title exception or defect that is monetary in nature, Owner agreeing to pay and satisfy of record any such title defects or exceptions prior to or on the Closing Date at Owner's expense, (ii) lease, rental agreement, or other right of occupancy of any kind, whether written or oral (it being acknowledged and understood that any lease, rental agreement or right of occupancy in existence as of the date hereof shall be handled pursuant to Section 6(a) hereof), (iii) recorded or unrecorded right or interest first attaching subsequent to the date of the applicable Title Commitment, or (iv) any matter encompassed by any standard exception under the Title Commitment for an ALTA Owner's Policy of Title Insurance in favor of Buyer, including the standard "gap" exception, the standard mechanic's lien exception, the standard survey exception (provided Buyer has delivered to Title Company the updated Survey of the Owner Property) and

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the standard Parties in possession exception (collectively, the "Non-Permitted Exceptions"). Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent to Buyer's obligation to close the transaction herein described that the Title Company shall have unconditionally indicated in writing that upon recording of the Owner Deed and payment of its premiums (at ordinary rates), the Title Company will issue the Title Policy to Buyer as herein required, insuring that marketable, fee simple title to the Owner Property shall be vested in Buyer, without exception for the Non-Permitted Exceptions, and with those title endorsements reasonably requested by Buyer. If the Parties are unable to cause the satisfaction of the aforesaid condition precedent, Buyer, in its discretion, may elect, by written notice to Owner, either to accept such title as Owner is capable of delivering and the attendant form of ALTA Owner's Policy of Title Insurance, or to terminate this Agreement.

(b) Subdivision. Promptly following the execution hereof and the Effective Date, the Parties shall secure, at Buyer's sole cost and expense, approval for the Owner Property to be subdivided from Owner's adjacent real property such that the Owner Property constitutes a separate legal parcel from such adjacent real property under applicable law (the "Owner Property Subdivision"). The Parties covenant and agree to cooperate with one another to finalize the terms and boundaries of the Owner Property Subdivision promptly after the Effective Date and no later than the expiration of the Development Period. In furtherance of the same, no later than thirty (30) days after the Effective Date, Buyer shall (i) draft an application for the Subdivision and provide the same to Owner for its prompt consent, which consent shall not be unreasonably withheld, conditioned or delayed, and (ii) submit such application to the applicable authority having jurisdiction over the Subdivision. Should this Agreement be terminated without Closing, Owner may request by written notice to Buyer that it wishes to have the Owner Property Subdivision reversed, Buyer shall promptly seek, at Buyer's sole cost and expense, to consolidate the Subdivision and related real property such that the Owner Property constitutes only that number of legal parcels in existence as of the Effective Date.

(c) Each of the obligations of Owner to be performed on or before the Closing Date shall have been duly performed, including without limitation the obligations of Owner under Section 6 of this Agreement.

(d) Buyer obtaining all of the Land Use Approvals in accordance with Section 6 (d) of this Agreement so that the Owner Property may be used as a solar energy generation facility, and for uses related and incidental thereto.

(e) The representations and warranties of Owner contained herein shall be true and correct as of the Closing Date.

(f) The satisfaction of all conditions precedent to closing under this Agreement such that fee simple title to the Buyer Property, by special warranty deed, shall be transferred to Owner on the Closing Date.

(g) Buyer's satisfaction, in its sole and absolute discretion, with the form and content of its Studies.

(h) Buyer has not terminated this Agreement pursuant to an express right set forth in this Agreement.

(i) Other reasonable and customary closing conditions and contingencies as agreed to by the Parties.

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If any of the contingencies set forth above are not satisfied or waived by Buyer on or before the Closing Date, Buyer may terminate this Agreement by written notice to Owner given no later than the Closing Date.

5. Owner's Contingencies. Owner's obligation to conclude this exchange is contingent upon the following:

(a) Title. On the Closing Date, Buyer shall convey, by special warranty deed (the "Buyer Deed"), to Owner marketable and insurable fee simple title to the Buyer Property, free from any (i) mortgage, deed to secure debt, deed of trust, security agreement, judgment, lien or claim of lien, or any other title exception or defect that is monetary in nature, Buyer agreeing to pay and satisfy of record any such title defects or exceptions prior to or on the Closing Date at Buyer's expense, (ii) lease, rental agreement, or other right of occupancy or use of any kind (including for hunting), whether written or oral, (iii) recorded or unrecorded right or interest first attaching subsequent to the date of the applicable Title Commitment, or (iv) any matter encompassed by any standard exception under the Title Commitment for an ALTA Owner's Policy of Title Insurance in favor of Buyer, including the standard "gap" exception, the standard mechanic's lien exception, the standard survey exception (provided Buyer has delivered to Title Company a sufficiently up-to-date Survey secured at Buyer's sole cost and expense) and the standard Parties in possession exception (collectively, the "Non-Permitted Exceptions"). Notwithstanding anything to the contrary contained in this Agreement, it shall be a condition precedent to Owner's obligation to close the transaction herein described that the Title Company shall have unconditionally indicated in writing that upon recording of the Buyer Deed and payment of its premiums (at ordinary rates), the Title Company will issue the Title Policy to Owner as herein required, insuring that marketable, fee simple title to the Buyer Property shall be vested in Owner, without exception for the Non-Permitted Exceptions, and with those title endorsements reasonably requested by Owner. If the Parties are unable to cause the satisfaction of the aforesaid condition precedent, Owner, in its discretion, may elect, by written notice to Buyer, either to accept such title as Buyer is capable of delivering and the attendant form of ALTA Owner's Policy of Title Insurance, or to terminate this Agreement.

(b) Reserved.

(c) Each of the obligations of Buyer to be performed on or before the Closing Date shall have been duly performed.

(d) The representations and warranties of Buyer contained herein shall be true and correct as of the Closing Date.

(e) The satisfaction of all conditions precedent to Closing under this Agreement such that fee simple title to the Buyer Property, by the Buyer Deed, shall be transferred to Owner on the Closing Date.

(f) Owner has not terminated this Agreement pursuant to an express right set forth in this Agreement.

(g) Other reasonable and customary closing conditions and contingencies as agreed to by the Parties.

If any of the contingencies set forth above are not satisfied or waived by Owner on or before the Closing Date, Owner may terminate this Agreement by written notice to Buyer given no later than the Closing Date.

6. Owner's Obligations.

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CONFIDENTIAL(a) Third-Party Occupants.

(i) Buyer acknowledges that the Owner Property is subject to existing leases and agreements with third parties for occupancy and/or use of the Owner Property for various farming activities. Owner shall deliver to Buyer copies of all such leases and agreements granting third-party rights as part of its due diligence materials disclosure pursuant to Section 2(b). As to any such third-party occupants Buyer shall have the option, at its discretion to either (A) assume Owner's interest in such third-party agreements or (B) to cause Owner to terminate those third-party agreements effective no later than the Closing Date, but in no event earlier than [REDACTED]. Should Buyer elect to have such third-party agreements terminated upon the Closing Date pursuant to the foregoing clause (B), and the Closing Date should occur prior to harvesting of any then planted and growing Crops (as defined below), Owner and its tenant(s) shall be entitled to Crop Damages (as defined below) as calculated pursuant to Section 6(a)(ii) below. During the Development Period, no third-party agreement for the Owner Property may be extended, amended or otherwise altered without the prior consent of Buyer, granted in Buyer's sole discretion; provided that any such third parties shall be entitled to exercise their rights to the Owner Property during the Development Period. Should (W) the Closing Date not occur by [REDACTED], and (X) Buyer decline to give Owner consent to extend third-party agreements for Farming (as defined below) to the end of the calendar year [REDACTED], Buyer shall make a one-time payment to Owner of [REDACTED] no later than [REDACTED]. Additionally, should (Y) the Closing Date not occur by [REDACTED], and (Z) Buyer decline to give Owner consent to extend third-party agreements for Farming (as defined below) to the end of the calendar year [REDACTED] Buyer shall make a one-time payment to Owner of [REDACTED] no later than [REDACTED]. All negotiations with third-party occupants shall be at the sole cost and expense of Owner.

(ii) During the Term, Owner and its tenants shall have the right to maintain farming, agricultural and livestock activities (collectively, "Farming") on the Owner Property. Should Owner or its tenants be required pursuant to Section 6(a)(i) above to remove Crops from the Owner Property prior to the same being harvestable and otherwise marketable, as demonstrated by reasonable documentary evidence, Buyer shall pay to Owner Crop Damages (as defined herein) for such damage. "Crops" shall mean planted and cultivated crops to be harvested from the Owner Property, such as, but not limited to, rice, wheat, corn, milo, hay and alfalfa, but excluding naturally growing vegetation used solely for onsite livestock grazing or ground cover. "Crop Damages" shall be equal to the product of (i) the average annual yield for the damaged Crop on the Owner Property (as reasonably established by Owner's or its tenants' written records), (ii) the average commodity price over the three (3) calendar years immediately preceding such damage, calculated based on the commodity price for such Crop as published by the United States Department of Agriculture from time to time for such years, and (iii) the total acreage (accounting for partial acres) bearing such Crops removed.

(b) Trust Approvals. Owner's governing trust documents prohibit transfer of the Owner Property for non-agricultural uses and entitle the Harrison County Board of Education to a share of the residual income generated by the Owner Property. Closing shall be expressly contingent upon receipt by Buyer, prior to the Closing Date, of documentation in form satisfactory to Buyer establishing consent to the transactions contemplated under this Agreement by the Owner's trustee, beneficiaries, and state and local governmental authorities with jurisdiction over the use, occupancy, and transfer of the Owner Property. Owner shall provide drafts of such documentation to Buyer for its review, comment and reasonable approval prior to submitting the same for approval by the foregoing third parties.

(c) Court Approval of Trustee's Power of Exchange. Promptly upon receipt by Owner of the first draft of the submittal by Buyer of an application for a conditional use permit (in furtherance of seeking Land Use Approvals pursuant to Section 6(d)) to the appropriate governmental authority with jurisdiction over the Project (as defined herein) and Owner Property, Owner shall cause an action to be filed

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with the district court of appropriate jurisdiction over the Owner Property for a KRS 389A order empowering the Trust to transfer and convey fee simple title to the Owner Property by the Owner Deed to Buyer pursuant to the terms of this Agreement. Closing shall be expressly contingent upon Buyer's receipt of a final, non-appealable KRS 389A order of sale and the expiration of the thirty (30) days from the date of such final order as required by KRS 389A.010, all of which shall be satisfied prior to the Closing Date. The approval contingencies required by Section 6(b) and this Section 6(c) shall be collectively referred to as the "Approvals Relating to the Trust").

(d) Approvals Relating to the Use of the Owner Property. Owner shall cooperate with Buyer in Buyer's efforts to seek governmental approvals desired by Buyer for Buyer's intended use and acquisition of the Property including (i) the granting to Buyer of full authority to seek any and all permits, entitlements, licenses, and approvals (collectively, "Land Use Approvals") necessary or convenient for the development of the Property for Buyer's intended use thereof (including without limitation, as necessary, conditional use permit, rezoning, general plan amendment, environmental permit, building permit, variance, and/or vacation applications) and for the division (whether by certified survey map or otherwise) of the Property so as to cause the Property to be recognized as a single lawfully subdivided parcel, and (ii) the execution of consents and applications in connection with Buyer attempting to obtain the Land Use Approvals. Without limiting the generality of the foregoing, Owner shall not oppose, in any way, whether directly or indirectly, and shall fully cooperate with Buyer in connection with any application by Buyer for any of the Land Use Approvals at any administrative, judicial, legislative, or other level. It is acknowledged and agreed by Owner that Buyer intends to utilize the Property (if Buyer acquires the Owner Property pursuant to this Agreement) as a solar energy generation facility, and for uses related and incidental thereto (the "Project"). Buyer shall pay all fees and costs in connection with Buyer's applications for any of the Land Use Approvals. Buyer will obtain Owner's prior written consent to any and all submittals to be made by Buyer in connection with the process of obtaining any of the Land Use Approvals. In the event that Owner unreasonably withholds, conditions or delays its consent to any such submittals desired to be made by Buyer, then Buyer shall have the right, in its sole discretion, to terminate this Agreement upon written notice to Owner, and upon any such termination pursuant to this sentence, Owner shall immediately refund to Buyer the Development Period Payments previously made by Buyer to Owner hereunder. If this Agreement is terminated pursuant to the provisions hereof, Owner may withdraw or terminate any applications for the Land Use Approvals.

(e) Grant of Easements. At Closing, Owner shall grant to Buyer non-exclusive easements over Owner's remaining real property located in Harrison County, Kentucky for (i) ingress to and egress from the Owner Property to Russell Cave Road (Hwy 353), (ii) the laying, construction and thereafter access, maintenance, repair, replacement and operation of utility lines and facilities, mains and appurtenant equipment related thereto as deemed necessary or convenient by Buyer, in its sole discretion, to connect the Project to the local utility point of interconnection and otherwise cause the efficient and economic operation of the Project, provided that underground facilities shall be placed at a depth of at least three feet (3'), and (iii) the use and improvement of roadways for access, whether now existing or constructed thereafter, throughout the term of the agreement (collectively, the "Easements"). At Closing, Owner shall deliver to Buyer a duly executed and acknowledged Grant of Easement in substantially the same form as attached hereto as **Exhibit 8** granting and conveying the Easements (the "Grant of Easement"). The locations and dimensions of the Easements shall be established by survey and agreed upon pursuant to good faith negotiation between the Parties prior to Closing. The Grant of Easement shall not become effective until the Closing Date. Upon Closing, the Grant of Easement shall be recorded in the County Clerk's office of Harrison County, Kentucky, promptly following its effectiveness pursuant to this Section 6(e). Should this Agreement expire or be terminated without Closing, including by reason of Owner's failure to secure the court and administrative approvals contemplated pursuant to Section 6(c), the Parties shall negotiate in good faith the conditions, compensation and delivery of a grant of the Easements, in form and substance mutually acceptable to the Parties. The Parties shall use commercially reasonable

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efforts to agree on and execute and acknowledge such a grant within thirty (30) days of the expiration or termination of this Agreement, after which Buyer shall be entitled to cause the same to be recorded in the real property records of the County Clerk's office of Harrison County, Kentucky.

7. Buyer's Obligations.

(a) Due Diligence Materials. Buyer shall furnish and deliver to Owner for examination, to the extent such items are in Buyer's possession or under Buyer's control, copies of the following: all leases, rental agreements, reports, surveys, maps, plans, specifications, soil tests, environmental audits, reports, studies, title commitments and policies, and other similar documentation relating to or affecting the Buyer Property.

8. Warranties and Representations. Buyer and Owner warrant, represent, and covenant to and with the other, knowing that each is relying on such representation, warranty, and covenant, that as of the Effective Date and the Closing Date:

(a) Owner is the sole owner of the Owner Property; Buyer will be the sole owner of the Buyer Property on the Closing Date.

(b) Each Party has the lawful right, power, authority and capacity to sell the Property in accordance with the terms, provisions and conditions of this Agreement (in the case of Owner, subject in all cases to court approval pursuant to Section 6(b)).

(c) There are no actions, suits or proceedings pending or threatened against, by or affecting either Party which affect title to the Property, or which question the validity or enforceability of this Agreement or of any action taken by either Party under this Agreement, in any court or before any governmental authority, domestic or foreign.

(d) Subject to Owner's receipt of all necessary trust and court approvals pursuant to Section 6(b) and (c), the execution of and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Buyer and Owner on the Closing Date, and the performance by Owner and Buyer of their duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the exchange of the Property as contemplated by and provided for in this Agreement, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Owner or Buyer is a party, any judicial order or judgment of any nature by which Owner or Buyer is bound; and this Agreement, and the covenants and agreements of Owner and Buyer under this Agreement, are the valid and binding obligations of Owner and Buyer, enforceable in accordance with their terms.

(e) To the best of Owner's knowledge as to the Owner Property and to the best of Buyer's knowledge as to the Buyer Property, no portion of the Property is used or has ever been used for the storage, processing, treatment or disposal of Pollutants; the improvements do not contain, nor have they ever contained, Pollutants; no Pollutants have been released, introduced, spilled, discharged or disposed of, nor has there been a threat of release, introduction, spill, discharge or disposal of a Pollutant, on, in, or under the Property; there are no pending claims, administrative proceedings, judgments, declarations, or orders, whether actual or threatened, relating to the presence of Pollutants on, in or under the Property; the Property is in compliance with all federal, state and local laws, regulations, orders and requirements regarding the regulation of Pollutants; no Pollutants have been released, introduced, spilled, discharged or disposed of on, in or under any adjacent property; and there are no underground storage tanks located on or in the Property. As used in this Agreement, "Pollutants" means any material or substance, or combination of materials or substances, which by reason of quantity, concentration, composition, or characteristic is or

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in the future becomes regulated under any federal, state or local environmental or common law, rule, regulation, ordinance or requirement, as may be amended, replaced or superseded, and shall include, without limitation: (i) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. § 69601 et seq.; (ii) any material identified as a hazardous waste under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C.A. § 6901 et seq.; (iii) any material regulated as a Toxic pollutant as defined under the Federal Water Pollution Control Act, 33 U.S.C.A. § 1251 et seq.; (vi) any hazardous substance or toxic pollutant as defined under the Federal Water Pollution Control Act, 33 U.S.C.A. § 1251 et seq.; (vii) any hazardous substance as defined by the Oil Pollution Act, 33 U.S.C.A. § 2701 et seq.; (viii) any hazardous air pollutant as defined under the Federal Clean Air Act, 42 U.S.C.A. § 7401 et seq.; (ix) any substance regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C.A. § 135 et seq.; (x) a special nuclear or byproduct material within the meaning of the Atomic Energy Act, 42 U.S.C.A. § 2014 et seq.; and (xi) any material or substance, or combination of materials or substances displaying any explosive, volatile, radioactive, toxic, corrosive, flammable, ignitable or reactive characteristic or which may cause a nuisance, injury, harm or degradation to human health, welfare or the environment. Notwithstanding the foregoing, Owner and Buyer state as to their respective Property that fertilizer, lime and other substances used in the normal course of farming the Property have been applied to the Property in customary amounts as to grow grass and hay for cattle, and each Party acknowledges that such is not a violation of this Section 8(e).

(e) There are no pending, threatened or contemplated condemnation actions involving all or any portion of the Property; and, to the best of Owner's and Buyer's knowledge and belief, there are no existing, proposed or contemplated plans to widen, modify or realign any public rights-of-way located adjacent to any portion of the Property, respectively.

(f) All information and data furnished by either Party to the other with respect to the Property, respectively, will be true, correct, complete and not misleading to the best of each Party's knowledge, information, and belief.

(g) Neither Owner nor Buyer will cut, remove, market or sell any timber or trees or minerals located on their respective Property from and after the Effective Date ("Timber and Mineral Warranty") without the prior written consent of the other Party.

(h) Owner and Buyer will not intentionally, knowingly, or negligently cause or permit any action to be taken which will cause any of the foregoing representations, warranties or covenants to be untrue or unperformed on the Closing Date; and Owner and Buyer will not intentionally, knowingly, or negligently cause or permit any action to be taken which will cause any of the conditions of Owner's obligations set forth in Section 6 or Buyer's obligations set forth in Section 7 herein to be unsatisfied or unperformed on or as of the Closing Date.

(i) Both Owner and Buyer will deliver on the Closing Date all documents and instruments required by this Agreement and perform all acts reasonably necessary or appropriate for the consummation of this exchange of the Property as contemplated by and provided for in this Agreement.

(j) During the Development Period, Owner shall have the right to maintain all current and lawful activities on the Owner Property, provided said activities do not interfere with the activities of Buyer described in this Agreement and subject to Buyer's right to request termination of the same pursuant to Section 6(a). Also during the Development Period, without limiting the rights afforded the Parties pursuant to Section 6, Owner shall have the right to enter into short term contracts of use, occupancy or lease of the Owner Property, provided (i) said activities do not interfere with the activities of Buyer described in this Agreement, (ii) the contracts are to be terminated or expire on or before the Closing Date, and (iii) Owner shall provide Buyer with written notice of the contracts and true and complete copies of

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such contracts within three (3) days of execution thereof. Upon the expiration of the Development Period, Owner shall not enter into any contract of sale, transfer, use, occupancy or lease of the Owner Property and all existing third-party occupant agreements shall be disposed of as provided in Section 6(a) of this Agreement. At all times prior to Closing, Owner shall not (i) change the current use of the Property; (ii) cause any material change to the Property, including by means of the construction of improvements or the grading of any portion of the Property, (iii) take any action to sever or convey any mineral rights associated with the Property, or (iv) cause, grant or permit any new encumbrances or exceptions to title to the Property including, without limitation, any new liens, easements or rights-of-way, without the prior written consent of Buyer in each instance, which consent may be granted or denied in the sole and absolute discretion of Buyer.

(k) Owner and Buyer are not a foreign person or disregarded entity within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended, and each Party shall deliver an affidavit in commercially reasonable form to such effect to the other Party upon Closing.

The covenants, warranties and representations of the Parties contained herein and in any document delivered pursuant hereto shall be true and correct on the Closing Date and shall survive Closing; provided, however, if any such representations or warranties shall prove to be untrue at any time on or prior to the Closing Date, then, in addition to any other rights or remedies which the non-breaching Party may have as a result thereof, the non-breaching Party shall be entitled to terminate this Agreement.

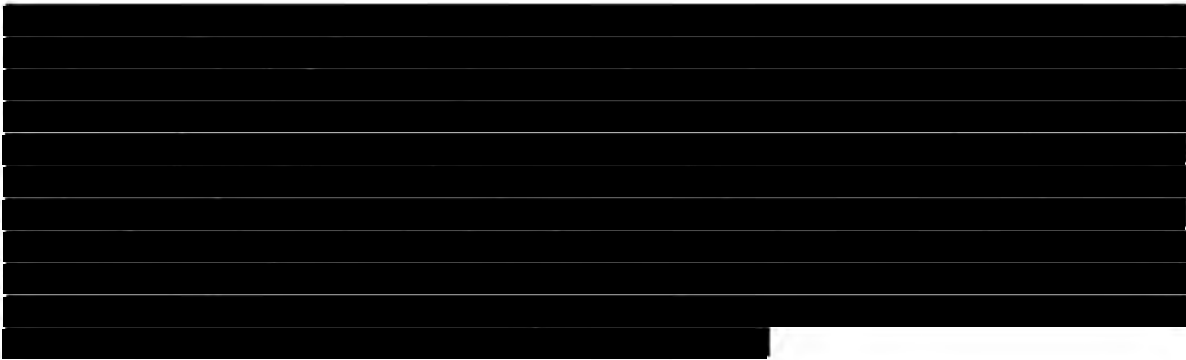
Further, Owner and Buyer each agrees to take such actions at its expense as may be necessary to cause the representations, warranties, and covenants in this Agreement to be true, correct, and satisfied as of the date of Closing; provided, however, if an event or circumstance which is neither caused by Owner or Buyer nor within the reasonable control of Owner or Buyer causes any such representation, warranty, or covenant to be untrue as of the date of Closing, each Party shall not be required to take any action with respect to such event or occurrence. Subject to the preceding sentence, each Party shall affirm the foregoing representations, warranties, and covenants at (and as of the date of) Closing, all of which shall survive Closing. Notwithstanding the foregoing, or anything to the contrary contained in this Agreement, it shall be a condition precedent to the other Party's obligation to close the transaction herein described that all of the other Party's representations, warranties, and covenants under this Agreement be true, correct, and satisfied, in all material respects, as of the date of Closing.

9. Closing Costs. Owner shall pay any real estate transfer taxes and/or documentary transfer taxes applicable to the transfer of the Owner Property, the cost of the title commitment and a standard ALTA owner's title policy issued to Buyer on the Closing Date, and the cost of any special endorsements which Owner agrees to provide to remove Non-Permitted Exceptions. Buyer shall pay any real estate transfer taxes and/or documentary transfer taxes applicable to the transfer of the Buyer Property, the cost of the title commitment and a standard ALTA owner's title policy issued to Owner on the Closing Date, and the cost of any special endorsements which Buyer agrees to provide to remove Non-Permitted Exceptions. Each Party hereto shall pay the cost of recording the deed transferring its Property, the cost of any special endorsements to its title policy as requested in such Party's discretion, and the additional premium attributable to extended coverage under its owner's title policy. Any escrow charges shall be split equally between the Parties hereto. Except as otherwise stated herein, each Party shall otherwise pay and be responsible for its own costs, expenses, and attorneys' fees.

10. Default. [REDACTED]

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11. Closing Deliveries. In addition to any other deliveries required hereunder, Owner and Buyer shall deliver at Closing the following:

(1) Owner's Deliveries. At Closing, Owner shall deliver actual possession of the Owner Property to Buyer and Owner shall deliver or cause to be delivered to Buyer such documents as are reasonably required by Buyer to close the transaction that is the subject of this Agreement, all fully executed by Owner and acknowledged as necessary, including the following enumerated documents, all of which documents shall be subject to the reasonable approval of Buyer:

- (a) Counterpart of closing statement;
- (b) Owner's Deed in substantially the same form as attached hereto as **Exhibit 7**, conveying to Buyer the Owner Property, warranting title against the Non-Permitted Exceptions;
- (c) Grant of Easement in substantially the same form as attached hereto as **Exhibit 8**, grant to Buyer non-exclusive easements over only those portions of Owner's remaining real property located in Harrison County, Kentucky more particularly described and depicted in **Exhibit 8** for purposes of access to the Owner Property to a public right of way and operation and maintenance of utilities (for the avoidance of doubt, the Easement delivered pursuant hereto shall apply only to those portions of Owner's remaining property actually described and depicted in Exhibit 8 and none of Owner's other remaining property);
- (d) Certificate of Non-Foreign Status, evidencing that Buyer shall not be liable for transfer liability under Section 1145 of the Internal Revenue Code, as amended;
- (e) Certification of Trust in substantially the same form as attached hereto as **Exhibit 9**; which shall include without limitation (i) confirmation of all representations and warranties of Owner stated herein are in full force and effect as of the Closing Date and (ii) that the Approvals Relating to the Trust as required by Sections 6 (b) and 6 (c) of this Agreement have been obtained prior to the Closing and are in such form as required by the Title Company to evidence Owner's authority to execute all necessary documents and to convey the Owner Property and acquire the Buyer Property;
- (f) A completed 1099-S request for taxpayer identification number and certification and acknowledgement; and

(g) Title affidavits and indemnities in form and content as may be reasonably required by Buyer and the Title Company to delete all of the Title Commitment's standard exceptions, including the standard "gap" exception, the standard mechanic's lien exception, and the standard parties in possession exception and any exceptions for judgment, state or federal tax, environmental, broker, or other

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liens; and such other agreements or documents as reasonably required by Buyer's counsel or the Title Company to consummate the exchange described herein.

(2) Buyer's Deliveries. At Closing, Buyer shall deliver actual possession of the Buyer Property to Owner and Buyer shall deliver or cause to be delivered to Owner such documents as are reasonably required by Owner to close the transaction that is the subject of this Agreement, all fully executed by Buyer and acknowledged as necessary, including the following enumerated documents, all of which documents shall be subject to the reasonable approval of Owner:

(a) Counterpart of closing statement;

(b) Buyer's Deed in substantially the same form as attached hereto as **Exhibit 10**, conveying to Buyer the Owner Property, warranting title against the Non-Permitted Exceptions;

(c) Certificate of Non-Foreign Status, evidencing that Buyer shall not be liable for transfer liability under Section 1145 of the Internal Revenue Code, as amended;

(d) A duly executed and acknowledged Sole Member's Certificate in substantially the same form as attached hereto as **Exhibit 11**, which shall include without limitation (i) confirmation of all representations and warranties of Buyer stated herein are in full force and effect as of Closing and (ii) resolutions of Buyer in such form as required by the Title Company to evidence Buyer's authority to execute all necessary documents and to convey the Buyer Property and acquire the Owner Property;

(e) A completed 1099-S request for taxpayer identification number and certification and acknowledgement;

(f) Buyer's affidavit with respect to the Buyer Property, concerning, the possession of the Buyer Property, improvements or repairs made on the Buyer Property within ninety (90) days of the Closing Date and the absence of legal proceedings against Buyer; and

(g) Such other agreements or documents as reasonably required by Owner's counsel or the Title Company to consummate the exchange described herein.

12. Closing Adjustments: Prorations.

(a) Real estate property taxes with respect to the Owner Property are tax exempt.

(b) Real estate property taxes with respect to the Buyer Property for the tax year in which Closing occurs shall be prorated as of the date of Closing Date based on Owner's and Buyer's respective periods of ownership and based on the actual amount of taxes for such tax year, if known, otherwise on [REDACTED] of the amount of the prior tax year's property taxes (in each case, prorated as necessary to the extent the Buyer Property comprises less than an entire tax parcel).

(c) All special assessments levied or announced regarding the Owner Property, or for work actually commenced, prior to Closing shall be paid by Owner, whether or not the same are payable in installments and all special assessments levied or announced regarding the Buyer Property, or for work actually commenced, prior to Closing shall be paid by Buyer, whether or not the same are payable in installments.

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(d) Rents, lease payments, and any and all items customarily prorated items between the Parties in transactions of this size and type in Harrison County shall be prorated at Closing as of the date of Closing Date and based on Owner's and Buyer's respective periods of ownership.

(e) RESERVED.

(f) Each Party shall pay their respective closing costs as set forth in Section 9.

13. Notices. All notices or other communications required or permitted hereunder shall, unless otherwise provided herein, be in writing, and shall be personally delivered, delivered by reputable overnight courier, or sent by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

If to Owner:

Sam W. Arnold, III, Trustee
Under the Agnes Smith McDowell
Charitable Trust dated June 22, 2001
103 Court Street
Cynthiana, Kentucky 41031
Phone: 859-234-6439
Email: samarnoldky@gmail.com

If to Buyer:

BLUEBIRD SOLAR LLC
BayWa r.e. Solar Projects LLC
18575 Jamboree Rd. Ste 850
Irvine, CA 92612
Attn: SVP, General Counsel
Phone: 949 656 4023
Email: ussp.legal@baywa-re.com

Notices personally delivered shall be deemed given the day so delivered. Notices given by overnight courier shall be deemed given on the first (1st) Business Day following the mailing date. Notices mailed as provided herein shall be deemed given on the third (3rd) Business Day following the mailing date. Any Party may change its address for purposes of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

14. Possession. Possession to the Buyer Property and the Owner Property shall be delivered immediately after Closing subject to any assumed tenant or parties in possession rights.

15. Damage to Property. Except as provided in this Section and except as otherwise provided in Section 2, the risk of loss or damage to the Owner Property and all liability to third parties until the Closing shall be borne by Owner, and the risk of loss or damage to the Buyer Property and all liability to third parties until the Closing shall be borne by Buyer. If, after the Effective Date and prior to Closing, all or any part of the Property is damaged by flood or other casualty, the Party entitled to the damaged property upon Closing hereunder shall immediately give written notice to the other Party of such damage, if any, in which event the other Party, in its discretion, may elect, by written notice to the owner of the damaged property, either to (i) terminate this Agreement, or (ii) keep this Agreement in effect and, if applicable, close the transaction contemplated hereby in accordance with its terms. The Parties hereby acknowledge that as of the Effective Date, neither Party carries insurance coverage as to improvements on their respective Property.

16. Eminent Domain. If, after the Effective Date and prior to Closing, if either the Owner or Buyer receives notice of the commencement or threatened commencement of eminent domain or other like proceedings against either of the Property or any portion thereof, the affected Party shall immediately give written notice thereof to the other Party, in which event the other Party, in its discretion, may elect, by written notice to Owner, either to (i) terminate this Agreement or (ii) keep this Agreement in effect and, if applicable, close the transaction contemplated hereby in accordance with its terms, but subject to such

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proceedings, in which event the affected Party shall assign to the other Party the affected Party's rights in any condemnation award or proceeds, as they pertain to this Agreement or the Property.

17. Repurchase Option. Buyer hereby grants to Owner an irrevocable and exclusive option to repurchase the Owner Property at the end of the operational life of the Project for the then [REDACTED] of the Owner Property (the "Owner Option"). The term of the Owner Option shall commence upon the consummation of the Closing of the exchange contemplated by this Agreement and shall continue through to the end of the operational life of the Project. The Owner Option shall become exercisable only upon (i) the satisfaction and release of all third-party investor and lender interests in the Project, and (ii) Buyer's determination, at its sole discretion, that the Project's operational life has come to an end. The Owner Option shall at all times remain subject and subordinate to the rights, title and interests of Buyer's lenders and investors in the Owner's Property or the Project. Once the foregoing conditions precedent to exercise of the Owner Option have been satisfied, Buyer shall notify Owner of same in writing. Upon receipt of such written notice, Owner shall have a period of ninety (90) days to elect to repurchase the Owner Property. In the event Owner wishes to exercise the Owner Option, Owner shall deliver to Buyer a written notice of Owner's election to exercise such right by the expiration of the aforesaid 90-day period. If Owner elects to exercise its Owner Option, Owner shall be bound to complete the purchase within thirty (30) days following notice of exercise, which purchase shall be completed on an "as-is, where-is" basis. The repurchase price shall be the [REDACTED] of the Owner Property at the time of the exercise of the Owner Option, which shall be determined by an appraisal of the Owner Property. If the Parties cannot agree upon an appraiser, either Party may petition/apply to the most senior district court judge of Harrison County, Kentucky for the appointment of an appraiser, whose valuation shall be final, binding, and conclusive for all purposes herein. The fees and expenses of the valuation and court petition shall be shared equally by the Parties. Further, the Parties shall split [REDACTED] all costs associated with the repurchase, provided, however, each of the Parties hereto shall bear its own attorneys' fees in relation to closing the repurchase. All real property ad valorem taxes and assessments against or on the Owner Property, due and payable in the year of the repurchase closing, shall be prorated between Parties as of the date of the closing of the repurchase. If Owner does not exercise its Owner Option within the aforementioned 30-day period, the Owner Option shall automatically terminate. The Owner Option shall survive Closing.

18. Brokers. Owner and Buyer each warrant and represent to the other that neither has employed or dealt with a real estate broker or agent in connection with the transaction contemplated hereby. Owner and Buyer covenant and agree, each to the other, to indemnify the other against any loss, liability, costs, claims, demands, damages, actions, causes of action, and suits arising out of, or in any manner related to, the alleged employment, engagement or use by the indemnifying Party of any real estate broker or agent. The foregoing obligation shall survive Closing.

19. Entire Agreement. This Agreement, together with the other agreements and instruments contemplated hereby, represent the entire agreement between the Parties and supersede all prior agreements or understandings between the Parties concerning the subject matter of this Agreement, whether written or oral, and no other agreements, written or oral, concerning the subject matter of this Agreement exist between the Parties.

20. Amendments and Waivers. This Agreement may be amended only by a written instrument signed by each of the Parties. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

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21. **Further Assurances.** The Parties each agree to do, execute, acknowledge, and deliver all such further acts, instruments, and assurances, and to take all such further action before or after Closing as shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby. The foregoing covenant shall survive Closing.

22. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and this Agreement shall not otherwise be deemed to confer upon or give to any other third party any right, claim, cause of action, or other interest herein.

23. **Assignment, Successors and Assigns.** Buyer may freely assign its rights under this Agreement, provided that Buyer must provide simultaneous written notice of any such transfer to Owner. The rights, powers and remedies of each Party shall inure to the benefit of such Party and its successors and permitted assigns.

24. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located and enforced in the state or federal courts sitting in Harrison County, Kentucky.

25. **Waiver of Jury Trial.** EACH PARTY HERETO HEREBY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO DEMAND THAT ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE RELATIONSHIP OF THE PARTIES HEREUNDER BE TRIED BY JURY. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. EACH PARTY HEREBY ACKNOWLEDGES THAT IT IS KNOWINGLY AND VOLUNTARILY WAIVING THE RIGHT TO DEMAND TRIAL BY JURY.

26. **Attorneys' Fees.** If any legal action or other proceeding is brought for the enforcement of this Agreement, the prevailing Party shall be entitled to be awarded its reasonable attorney's fees, expert fees, expenses and costs incurred in connection with such action or proceeding.

27. **Severability.** The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions hereof; provided that any provision of this Agreement that is invalid or unenforceable in any situation or in any jurisdiction will not affect the enforceability of the remaining terms and provisions hereof or the enforceability of the offending term or provision in any other situation or in any other jurisdiction.

28. **Time.** Time is of the essence of each provision of this Agreement. Without limiting the foregoing, during the Development Term, the Parties agree to use commercially reasonable efforts to provide regular status updates, no less than monthly, to each other regarding each such Party's progress in satisfying the various conditions to Closing set forth herein.

29. **Gender.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural.

30. **Captions.** The article and section headings contained in this Agreement are inserted for convenience only and will not affect in any way the meaning or interpretation of this Agreement.

31. **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which will be deemed an original but all of which together will constitute one (1) agreement. An executed counterpart of this Agreement delivered by fax or other means of electronic communications shall be deemed to be an original and shall be as effective for all purposes as delivery of a manually delivered counterpart.

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32. Confidentiality. Subject to any disclosures necessary or convenient to Owner's satisfaction of the obligations set forth in Section 6(c) relating to court and administrative approvals of the transactions contemplated hereby, Owner will (i) treat this Agreement and all oral discussions related hereto in strict confidence and (ii) except to the extent included in any memorandum recorded in the public records, shall not disclose any of the particulars hereof to any third parties without the prior written consent of Buyer; provided, however, that Owner may disclose such information to (x) Owner's personal advisors, (y) any prospective Buyer of the Property, or (z) pursuant to lawful process, subpoena, or court order; so long as in making such disclosure Owner advises the person receiving the information of the confidentiality thereof and obtains the agreement of said person not to disclose such information. Excluded from the foregoing is any information that is in the public domain by reason of prior publication through no act or omission of Owner.

33. Recordable Memorandum. Concurrently with execution of this Agreement, Owner and Buyer shall execute a memorandum in the form of **Exhibit 12** attached hereto and made a part hereof by reference, or any other commercially reasonable form of memorandum summarizing the terms of this Agreement, and Buyer shall be entitled to record same in the Harrison County Clerk's Office.

34. Consent. Except where expressly stated that such consent is within a Party's sole discretion, whenever a Party's consent is required pursuant to this Agreement, the Parties agree that such consent may not be unreasonably withheld, conditioned or delayed.

35. Dispute Resolution. Any dispute, controversy or claim ("Dispute") arising out of or in relation to this Agreement, including the validity, invalidity, breach or termination thereof shall be resolved in accordance with the procedure in this **Section 34**. The Party raising any Dispute shall first serve written notification of the Dispute to the other Party (a "**Dispute Notice**"). Within fifteen (15) days of the service of a Dispute Notice one (1) director or other senior representative of each Party shall meet to seek to resolve the Dispute. Any Dispute not resolved within sixty (60) days of service of the Dispute Notice for any reason (including a Dispute that has not been resolved because no meeting has taken place) may be referred by either Party to binding arbitration administered by the American Arbitration Association ("**AAA**") under its Commercial Arbitration Rules ("**AAA Rules**"). To the extent possible in light of the nature of the Dispute, the arbitrators shall (a) apply a "baseball" or "last offer" arbitration procedure, whereby the arbitrators shall request each Party to submit to the arbitrator and exchange with each other, in accordance with a procedure to be established by the arbitrators, its final position on the award that it believes it is entitled to obtain; and (b) the arbitrators shall award only one or the other of the two positions submitted by the Parties. The seat, or legal place, of arbitration shall be Lexington, Kentucky, United States. There shall be one (1) independent arbitrator selected by AAA using a list method (see E-4 of the AAA Rules). The language of the arbitration shall be English. The arbitrators shall not award any punitive or exemplary damages, and the Parties irrevocably waive the right to collect any damages inconsistent with the foregoing. Without limit, nothing contained herein will be construed to permit the arbitrator or any court or any other forum to award punitive or exemplary damages. The Parties shall take all reasonable actions (including implementing an expedited discovery and hearing schedule) to seek to conclude the final hearing within sixty (60) days after the filing of the Demand for Arbitration with the AAA. The arbitral tribunal shall seek to issue the final Award within thirty (30) days of the conclusion of the final hearing. Judgment on the Award rendered by the arbitral tribunal may be entered by any court having jurisdiction thereof. Each Party will pay its legal fees and costs related to the arbitration (including witness and expert fees). Except as necessary in court proceedings to enforce the arbitration provisions in this **Section 35** or an award rendered hereunder, to obtain interim relief, or as otherwise required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Neither Party shall take any action to force a resolution of a Dispute by any judicial or similar process, except to the limited extent necessary to (i) obtain equitable or interim relief, including injunctive relief, to preserve the status quo, prevent irreparable harm arising from the violation of a Party's rights

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regarding confidential information or intellectual property during the pendency of the resolution procedures set forth in this Section 35 or (ii) enforce a final Award rendered in accordance with this Section 35 or (iii) to compel arbitration. The courts of the Commonwealth of Kentucky shall have jurisdiction to hear any such actions stated in (i) through (iii).

[Signature Pages Follow]

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IN WITNESS WHEREOF, the undersigned Parties have set their hands and seals hereto as of the day and year indicated next to their signatures.

BUYER:

BLUEBIRD SOLAR LLC

By: 

Name: William Gulley

Title: Authorized Signatory

Date of Execution 3/17/20

SM/4/5/21

OWNER:



**SAM W. ARNOLD, III, AS TRUSTEE
UNDER THE AGNES SMITH
MCDOWELL CHARITABLE TRUST
DATED JUNE 22, 2001, AS AMENDED**

Date of Execution April 5, 2021

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EXHIBIT 1

The Owner Property

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478);

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) the following bearings and distances:

1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;
7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 109.10 feet to a point;
14. THENCE South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar;
15. THENCE leaving the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 75°01'35" West, a distance of 667.00 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 20°06'11" East, a distance of 303.56 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 24°35'20" East, a distance of 98.17 feet to an iron pin set, a 1/2-inch rebar;

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THENCE South 28°23'38" East, a distance of 130.63 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 36°50'22" East, a distance of 89.92 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 54°02'18" East, a distance of 111.62 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 68°14'33" East, a distance of 78.82 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 80°16'55" East, a distance of 37.16 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 41°01'56" East, a distance of 179.84 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 21°47'27" East, a distance of 303.21 feet to a point on the boundary line of Sam W. Arnold (D.B. 293, Pg. 752);

THENCE North 65°11'21" West, a distance of 2269.07 feet to a 1/2 inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752)) and Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691);

THENCE North 06°53'46" West, a distance of 272.49 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691) and William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE South 83°59'23" East, a distance of 384.19 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE North 04°34'04" East, a distance of 1950.90 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829 and Joe M. McDaniel (D.B. 140, Pg. 250);

THENCE North 05°41'34" East, a distance of 976.72 feet to an iron pin set, a 1/2-inch rebar, said iron pin, being a corner to Joe M. McDaniel (D.B. 140, Pg. 250) and Joe Patterson, (D.B. 180, Pg. 478);

THENCE South 85°00'44" East, a distance of 1516.40 feet to an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353), said iron pin set being the POINT OF BEGINNING.

Said tract or parcel of land containing 5,486,519 Square Feet or 125.953 Acres, more or less.

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Excluded Residential Real Property

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a one-half inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478, and also being the POINT OF BEGINNING;

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) the following bearings and distances:

1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;
7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar on the westerly right-of-way line of Russell Cave Road, said point being the POINT OF BEGINNING;

THENCE continuing along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) South 12°33'58" East, a distance of 27.63 feet to a point;

THENCE continuing along the said westerly right-of-way line South 16°14'53" East, a distance of 361.27 feet to a point

THENCE continuing along the said westerly right-of-way line southerly a distance of 922.45 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a

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chord which bears South 02°42'27" East, for a distance of 913.89 feet, to a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752);

THENCE leaving the said westerly right-of-way line of Russell Cave Road proceed along the northerly boundary line of Sam W. Arnold North 65°11'21" West, a distance of 113.04 feet to a point;

THENCE leaving said boundary line proceed North 21°47'27" West, a distance of 303.21 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 41°01'56" West, a distance of 179.84 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 80°16'55" West, a distance of 37.16 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 68°14'33" West, a distance of 78.82 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 54°02'18" West, a distance of 111.62 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 36°50'22" West, a distance of 89.92 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 28°23'38" West, a distance of 130.63 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 24°35'20" West, a distance of 98.17 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 20°06'11" West, a distance of 303.56 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 75°01'35" East, a distance of 667.00 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 567,245 Square Feet or 13.022 Acres, more or less.

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EXHIBIT 2

The Buyer Property

Bourbon County, Kentucky
(Deed Book 207, Page 441)

Being Parcel Identification No. 008-00-00-002.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron rod found with cap located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 37°08'49" East, a distance of 577.95 feet to a point being a corner to Agnes McDowell;

THENCE South 36°10'24" East, a distance of 597.99 feet to a point being a corner to Agnes McDowell;

THENCE North 57°33'53" East, a distance of 494.37 feet to a point being a corner to Agnes McDowell and Agnes S. McDowell, (D.B. 109, Page 186);

THENCE South 51°44'49" East, a distance of 424.22 feet to a point being a corner to Agnes S. McDowell;

THENCE South 46°14'59" East, a distance of 592.17 feet to a point being a corner to Agnes S. McDowell;

THENCE South 59°42'24" East, a distance of 604.06 feet to a point being a corner to Agnes S. McDowell (D.B. 109, Page 186), and Carol M. Ricker, (D.B. 235, PG 175), and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE North 76°51'36" West, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 47°09'03" West, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 40°55'17" East, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 52°42'40" West, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 54°48'35" West, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE North 34°29'36" East, a distance of 263.71 feet to an iron pin found, a one-half inch rebar being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc.;

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THENCE North 55°24'48" West, a distance of 357.55 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc., and Hinkle Holding Company, LLC;

THENCE North 21°40'18" East, a distance of 584.89 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°13'41" West, a distance of 346.15 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 22°04'20" East, a distance of 276.53 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°20'05" West, a distance of 238.71 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 59°23'28" West, a distance of 144.13 feet to a point being a corner to Hinkle Holding Company, LLC and also on the easterly right-of-way line of Russell Cave Road (Ky 353) being 100-feet wide at this point;

THENCE along the said easterly right-of-way line of Russell Cave Road North 30°25'32" East, a distance of 389.60 feet to a point;

THENCE continuing along the said easterly right-of-way line North 30°51'12" East, a distance of 348.66 feet to a point;

THENCE along the said easterly right-of-way line North 30°24'04" East, a distance of 283.30 feet to a point;

THENCE along the said easterly right-of-way line North 30°29'03" East, a distance of 147.46 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 4,732,147 Square Feet or 108.635 Acres, more or less.

AND

Being Parcel Identification No. 008-00-00-001.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at a point located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 55°10'38" East, a distance of 607.37 feet to an

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iron pin found and being a corner to Hinkle Holding Company, LLC, and to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE South 55°06'09" East, a distance of 300.63 feet to a point being a corner to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611) and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE South 54°48'35" East, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 52°42'40" East, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 40°55'17" West, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 47°09'03" East, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 76°51'36" East, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker (D.B. 235, PG 175)

THENCE South 27°01'19" East, a distance of 1487.11 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker;

THENCE South 54°31'01" East, a distance of 444.62 feet to a point Birtle L. & Patricia H. Spencer and Carol M. Ricker and to Hume P. Wornall;

THENCE South 51°10'51" West, a distance of 910.04 feet to a point being a corner to Hume P. Wornall;

THENCE South 45°19'53" East, a distance of 859.23 feet to a point being a corner to Hume P. Wornall;

THENCE South 55°45'17" West, a distance of 631.85 feet to a point being a corner to Hume P. Wornall;

THENCE South 51°05'24" East, a distance of 151.65 feet to a point being a corner to Hume P. Wornall;

THENCE South 24°30'20" West, a distance of 603.71 feet to a point being a corner to Hume P. Wornall;

THENCE South 87°26'34" West, a distance of 100.35 feet to a point being a corner to Hume P. Wornall;

THENCE North 04°52'15" West, a distance of 53.41 feet to a point being a corner to Hume P. Wornall;

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THENCE North 42°08'57" West, a distance of 158.66 feet to a found iron rod with cap marked (Darnell 3553) being a corner to Hume P. Wornall;

THENCE South 56°21'54" West, a distance of 661.28 feet to a point being a corner to Hume P. Wornall;

THENCE North 44°04'16" West, a distance of 795.67 feet to a point being a corner to Jacksonville Cemetery;

THENCE South 47°38'15" West, a distance of 712.25 feet to a point being a corner to Jacksonville Cemetery;

THENCE North 49°42'35" West, a distance of 1425.10 feet to a point being a corner to Jacksonville Cemetery and to Mark E. Nason;

THENCE North 04°38'17" East, a distance of 161.04 feet to a point being a corner to Mark E. Nason;

THENCE South 63°01'21" West, a distance of 1178.73 feet to a point being a corner to Mark E. Nason and also being on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point,

THENCE along the said easterly right-of-way line the following bearings and distances:

1. North 00°35'22" West, a distance of 137.90 feet to a point;
2. North 01°21'08" West, a distance of 331.41 feet to a point;
3. North 03°20'40" West, a distance of 296.79 feet to a point;
4. North 04°33'56" West, a distance of 109.21 feet to a point;
5. North 02°53'05" West, a distance of 115.91 feet to a point
6. THENCE northwesterly and northerly a distance of 189.87 feet along the arc of a curve to the right, having a radius of 659.54 feet and being subtended by a chord which bears North 05°21'44" East, for a distance of 189.21 feet, to a point;
7. THENCE northerly a distance of 188.28 feet along the arc of a curve to the right having a radius of 2921.88 feet and being subtended by a chord which bears North 15°27'19" East, for a distance of 188.25 feet, to a point;
8. North 17°29'14" East, a distance of 246.12 feet to a point;
9. North 17°17'05" East, a distance of 265.08 feet to a point;
10. North 16°18'28" East, a distance of 286.28 feet to a point
11. THENCE northerly a distance of 474.98 feet along the arc of a curve to the left, having a radius of 2291.23 feet and being subtended by a chord which bears North 10°22'09" East, for a distance of 474.13 feet, to a point;
12. North 09°22'52" East, a distance of 317.31 feet to the POINT OF BEGINNING.

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Said tract or parcel of land containing 11,072,682 Square Feet or 254.194 Acres, more or less.

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EXHIBIT 3

The Title Commitment for Owner Property

See attached.

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ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

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STG Privacy Notice

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[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT 4

The Title Commitment for Buyer Property

See attached.

SA 4/5/21

CONFIDENTIAL

stewart title

ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

AMERICAN
LAND TITLE
INSURANCE



SNA 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

AMERICAN LAND TITLE ASSOCIATION
9/5/21

[Redacted text block]

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SM 9/5/21

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Ben A Kl

[Redacted]

[Redacted]

[Redacted]



SM 4/5/21

CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Tract II:

[REDACTED]

[REDACTED]

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SNA 4/5/21

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SAR 4/5/21

CONFIDENTIAL

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SNA 9/5/21

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AMERICAN
LAND TITLE
ASSOCIATION



AM 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

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[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

9/5/21

CONFIDENTIAL

EXHIBIT 5

Survey of Owner Property

See attached.

SJA/4/5/21

CONFIDENTIAL

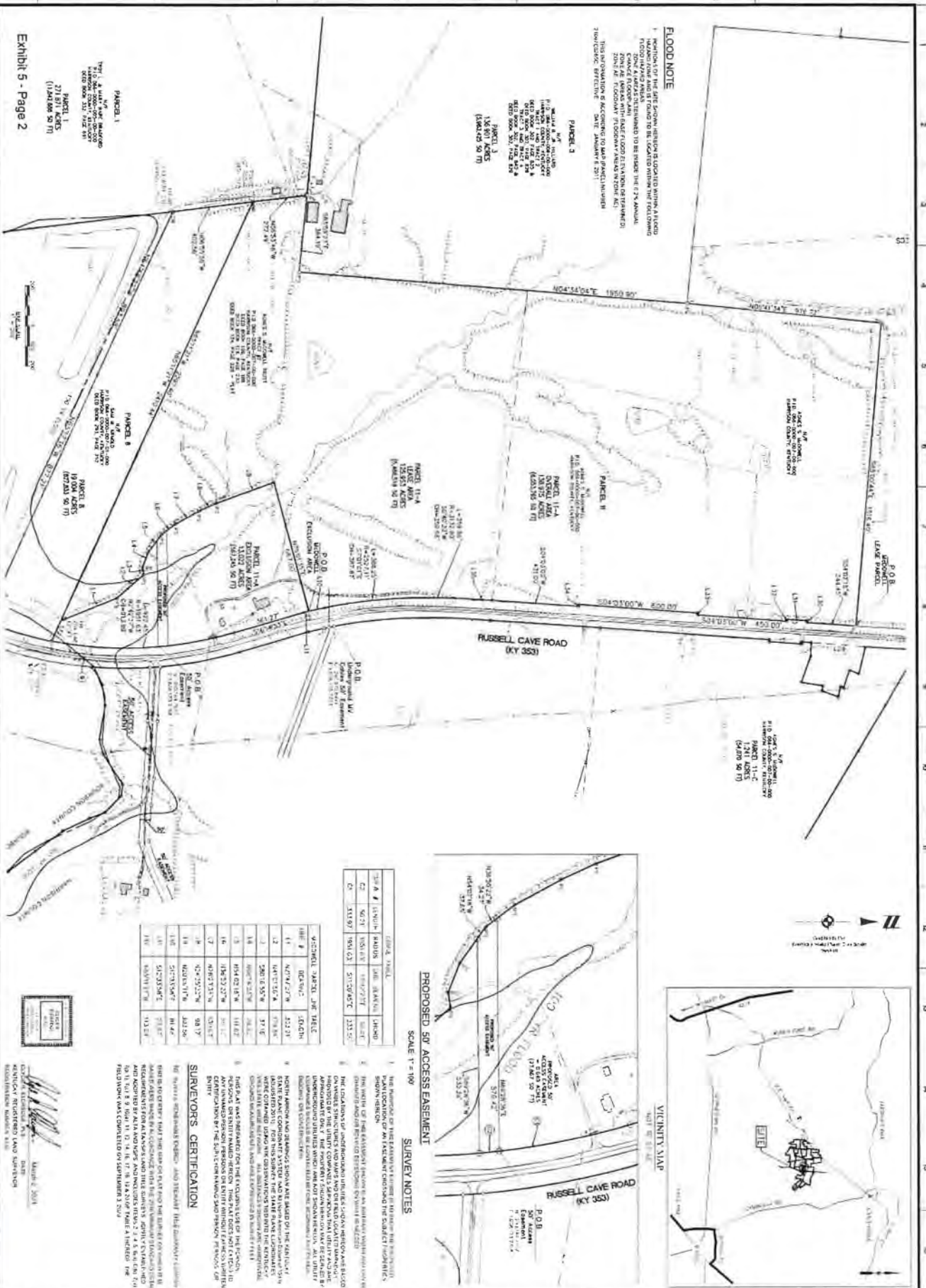


Exhibit 5 - Page 2

LINE #	LENGTH	BEARING	AREA	PERIMETER	AREA
1	100.00	N 00° 00' 00" E	0.00	100.00	0.00
2	100.00	E 00° 00' 00" S	0.00	100.00	0.00
3	100.00	S 00° 00' 00" W	0.00	100.00	0.00
4	100.00	W 00° 00' 00" N	0.00	100.00	0.00



SURVEY NOTES

1. THE BOUNDARY SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT OF 1978 AND THE SURVEYING REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING OF THE STATE OF KENTUCKY.

2. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT OF 1978 AND THE SURVEYING REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING OF THE STATE OF KENTUCKY.

3. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT OF 1978 AND THE SURVEYING REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING OF THE STATE OF KENTUCKY.

SURVEYORS CERTIFICATION

I, the undersigned, being a duly licensed and sworn surveyor in the State of Kentucky, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land described in the foregoing plat.

DATE: 05/15/21

SURVEYOR: [Signature]

SM 4/5/21

<p>BayWa r.e. Renewable Energy</p> <p>BOUNDARY SURVEY OF THE PROPERTY OF AGNES S. HODOWELL LEASE PARCEL AND EXCLUSION AREA P I D 066 000 007 00 000 BLUES RD SOLAR LLC SITE 5.5 ACRES (240,000 SQ FT) 100' W OF KY 353 AND STATE ROUTE 40 KY</p>	<p>P I D 066-000-007-00-000</p> <p>LOCATED IN</p> <p>HARRISON COUNTY</p> <p>CYNTHIANA, KENTUCKY</p>	<p>ATWELL</p> <p>666.850.4200 www.atwell-survey.com</p> <p>155 EAST MAIN STREET, SUITE 100, CYNTHIANA, KY 40301</p> <p>ATWELL SURVEYING & MAPPING, INC.</p>	<p>811</p> <p>Call before you dig.</p> <p>1-800-4-A-DIG</p>
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CONFIDENTIAL

STEWART TITLE GUARANTY COMPANY
TITLE COMMITMENT NUMBER: 021912354
EXHIBIT 'K'
LEGAL DESCRIPTION

STEWART TITLE GUARANTY COMPANY
TITLE COMMITMENT NUMBER: 021912354
EXHIBIT 'K'
LEGAL DESCRIPTION

AS SURVEYED:
LOCALITY: HARRISBURG
COUNTY: HARRISBURG
OWNER: [Redacted]

AS SURVEYED:
LOCALITY: HARRISBURG
COUNTY: HARRISBURG
OWNER: [Redacted]

1. A plat of the land described above, with a plat map showing the location of the land in the Public Land Survey System, is on file in the office of the County Clerk of the County of Harrison, Kentucky, and is a part of the same. The land is described as follows: [Detailed description of land parcels, including acreage and location details.]

2. The land described above is owned by [Redacted], and is being conveyed to [Redacted] for the purpose of [Redacted]. [Detailed description of the conveyance, including references to other documents and legal descriptions.]

BayWa r.e. Renewable Energy
24 TAMMINS LAND TITLE SURVEY
OF A CERTAIN MIDWELL
LEASE PARCEL AND EXCLUSION AREA
P.L. 066-0000-007-00-000 (P.L. 1)
IN UEBIRD SOLAR, LLC SITE
22 E HIGHWAY 60 EAST STATE ROUTE 40

F I D 066-0000-007-00-000
LOCATED IN
HARRISBURG COUNTY
CINTHIANA, KENTUCKY

ATWELL
SOLAR
22 E HIGHWAY 60 EAST STATE ROUTE 40
CINTHIANA, KY 40301

2 OF 2

BAW-4/5/21

CONFIDENTIAL

EXHIBIT 6

Survey of Buyer Property

See attached.

SNA
4/5/21

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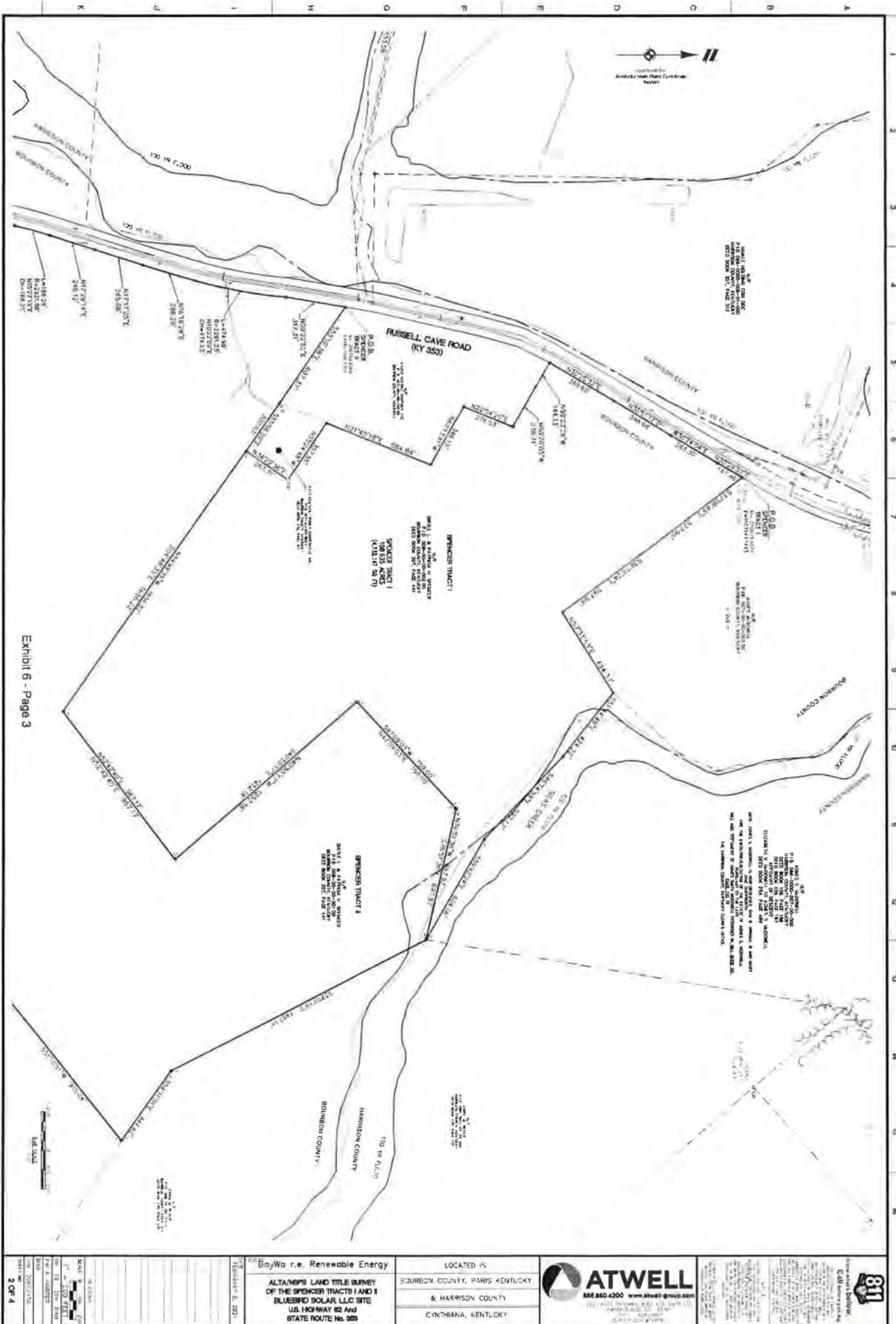


Exhibit 6 - Page 3

<p>2017 11 13 10:00 AM</p> <p>2 OF 4</p>	<p>ATWELL</p> <p>800.250.4200 www.atwell.com</p>	<p>BayWa r.e. Renewable Energy</p>	<p>LOCATED IN</p> <p>BOURBON COUNTY, PARIS, KENTUCKY</p>
		<p>ALTA/EPG'S LAND TITLE SURVEY OF THE SPOKER TRACT I AND II BLUEBIRD SOLAR, LLC SITE US HIGHWAY 28 OR 28 BY STATE ROUTE No. 353</p>	<p>& HARRISON COUNTY</p> <p>CYNTHIANA, KENTUCKY</p>

SM 4/5/24

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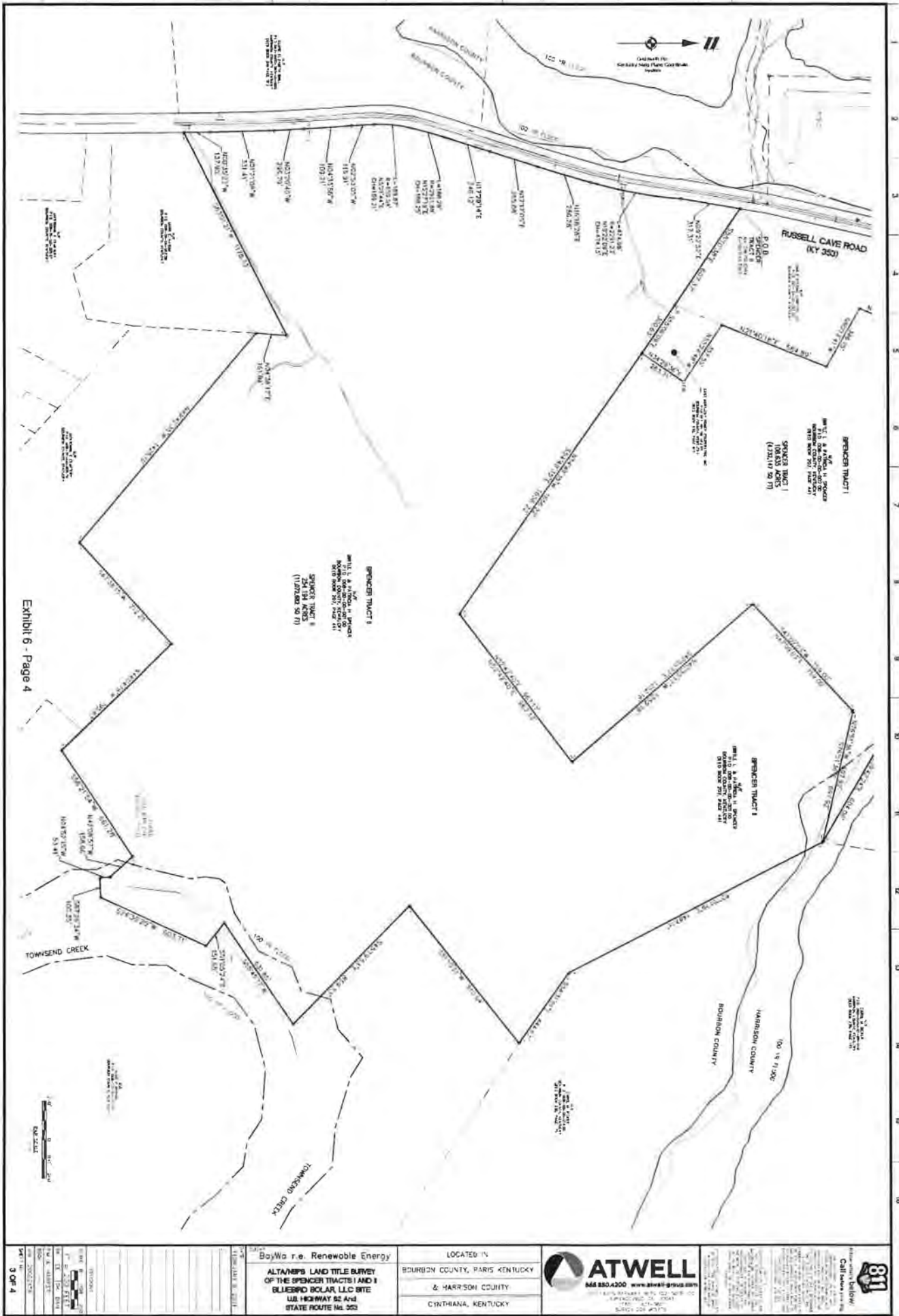


Exhibit 6 - Page 4

<p>3 OF 4</p>	<p>BoyWa r.e. Renewable Energy ALTA/NSP LAND TITLE SURVEY OF THE SPENCER TRACTS 1 AND 2 BLUEBIRD ROLLER LLC SITE US HIGHWAY 52 AND STATE ROUTE No. 253</p>	<p>LOCATED IN BOURBON COUNTY, PARIS KENTUCKY & HARRISON COUNTY CYNTHIANA, KENTUCKY</p>	<p>ATWELL 616.850.4200 www.atwell-survey.com</p>	<p>811 Call before you dig!</p>
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SA 4/5/21

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<p>A B C D E F G H I J K</p>	<p style="text-align: center;">*AS SURVEYED* LEGAL DESCRIPTION</p> <p>Spencer Tract I Birtle L. & Patricia H. Spencer Bourbon County, Kentucky (Deed Book 207, Page 441)</p> <p>Being Parcel Identification No. 008 00 00 002 00</p> <p>All that certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 333), and being more particularly described as follows:</p> <p>Commencing at an iron rod found with cap located on the westerly right of way line of Russell Cave Road (Ky 333), said right of way being 100 feet wide at this point, said point having State Plane coordinates of Northing: 2688214.170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007 00 00 003 000 and also being the POINT OF BEGINNING;</p> <p>THENCE leaving the said westerly right of way line of Russell Cave Road (variable width right of way, 100 feet wide at this point) proceed South 37°08'47" East, a distance of 577.95 feet to a point being a corner to Agnes McDowell;</p> <p>THENCE South 28°10'24" East, a distance of 597.99 feet to a point being a corner to Agnes McDowell;</p> <p>THENCE South 57°37'23" East, a distance of 438.57 feet to a point being a corner to Agnes McDowell and Agnes H. McDowell, (D.B. 106, Page 186);</p> <p>THENCE South 51°48'49" East, a distance of 424.72 feet to a point being a corner to Agnes S. McDowell;</p> <p>THENCE South 48°14'53" East, a distance of 581.57 feet to a point being a corner to Agnes S. McDowell;</p> <p>THENCE South 56°42'24" East, a distance of 604.86 feet to a point being a corner to Agnes S. McDowell, (D.B. 106, Page 186), and Carol M. Ricca, (D.B. 235, PG 173), and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);</p> <p>THENCE North 76°51'36" West, a distance of 687.99 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE South 47°09'02" West, a distance of 759.99 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE South 40°55'17" East, a distance of 1252.19 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE South 32°42'48" West, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE North 54°48'23" West, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power Cooperative, Inc. (D.B. 232, PG 611);</p> <p>THENCE North 24°20'38" East, a distance of 263.71 feet to an iron pin found, a new nail with seal being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power Cooperative, Inc.;</p> <p>THENCE North 55°24'48" West, a distance of 357.55 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power Cooperative, Inc., and Hinkle Holding Company, LLC;</p> <p>THENCE North 21°40'18" East, a distance of 588.89 feet to a point being a corner to Hinkle Holding Company, LLC;</p> <p>THENCE North 60°17'41" West, a distance of 346.15 feet to a point being a corner to Hinkle Holding Company, LLC;</p> <p>THENCE North 22°04'20" East, a distance of 578.55 feet to a point being a corner to Hinkle Holding Company, LLC;</p> <p>THENCE North 60°20'05" West, a distance of 238.71 feet to a point being a corner to Hinkle Holding Company, LLC;</p> <p>THENCE North 59°22'28" West, a distance of 144.13 feet to a point being a corner to Hinkle Holding Company, LLC and also on the westerly right of way line of Russell Cave Road (Ky 333) being 100 feet wide at this point;</p> <p>THENCE along the said westerly right of way line of Russell Cave Road North 30°25'32" East, a distance of 399.99 feet to a point;</p> <p>THENCE continuing along the said westerly right of way line North 30°11'12" East, a distance of 348.06 feet to a point;</p> <p>THENCE along the said westerly right of way line North 30°24'04" East, a distance of 283.38 feet to a point;</p> <p>THENCE along the said westerly right of way line North 30°29'07" East, a distance of 147.48 feet to the POINT OF BEGINNING.</p> <p>Said tract or parcel of land containing 4.732,147 Square Feet or 108.635 Acres, more or less.</p>	<p style="text-align: center;">*AS SURVEYED* LEGAL DESCRIPTION</p> <p>Spencer Tract II Birtle L. & Patricia H. Spencer Bourbon County, Kentucky (Deed Book 207, Page 441)</p> <p>Being Parcel Identification No. 008 00 00 003 000</p> <p>All that certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 333), and being more particularly described as follows:</p> <p>Commencing at a point located on the westerly right of way line of Russell Cave Road (Ky 333), said right of way being 100 feet wide at this point, said point having State Plane coordinates of Northing: 2688214.170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007 00 00 003 000 and also being the POINT OF BEGINNING;</p> <p>THENCE leaving the said westerly right of way line of Russell Cave Road (variable width right of way, 100 feet wide at this point) proceed South 35°10'34" East, a distance of 607.27 feet to an iron pin found and being a corner to Hinkle Holding Company, LLC, and to East Kentucky Power Cooperative, Inc. (D.B. 232, PG 611);</p> <p>THENCE South 50°06'09" East, a distance of 300.63 feet to a point being a corner to East Kentucky Power Cooperative, Inc. (D.B. 232, PG 611) and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);</p> <p>THENCE South 54°48'23" East, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE North 52°47'47" East, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE North 48°14'53" West, a distance of 581.57 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE North 47°09'02" East, a distance of 759.99 feet to a point being a corner to Birtle L. & Patricia H. Spencer;</p> <p>THENCE South 76°51'36" East, a distance of 687.99 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricca, (D.B. 235, PG 173);</p> <p>THENCE South 27°01'19" East, a distance of 1487.11 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricca;</p> <p>THENCE South 54°23'01" East, a distance of 844.82 feet to a point Birtle L. & Patricia H. Spencer and Carol M. Ricca and to Hume P. Worsnik;</p> <p>THENCE South 47°01'02" West, a distance of 3192.08 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE South 45°14'53" East, a distance of 839.23 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE South 55°14'51" West, a distance of 831.85 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE South 51°05'15" East, a distance of 151.85 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE South 24°30'24" West, a distance of 603.71 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE South 67°26'34" West, a distance of 100.35 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE North 64°52'15" West, a distance of 53.41 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE North 42°08'19" West, a distance of 158.86 feet to a found iron rod with cap marked (D.B. 235) being a corner to Hume P. Worsnik;</p> <p>THENCE South 38°27'58" West, a distance of 681.28 feet to a point being a corner to Hume P. Worsnik;</p> <p>THENCE North 44°04'16" West, a distance of 735.67 feet to a point being a corner to Jacksonville Cemetery and to Mark E. Nelson;</p> <p>THENCE South 47°38'15" West, a distance of 712.25 feet to a point being a corner to Jacksonville Cemetery;</p> <p>THENCE North 49°42'55" West, a distance of 1425.10 feet to a point being a corner to Jacksonville Cemetery and to Mark E. Nelson;</p> <p>THENCE North 04°38'17" East, a distance of 181.04 feet to a point being a corner to Mark E. Nelson;</p> <p>THENCE South 63°01'21" West, a distance of 1178.73 feet to a point being a corner to Mark E. Nelson and also being on the westerly right of way line of Russell Cave Road (Ky 333), said right of way being 100 feet wide at this point;</p> <p>THENCE along the said westerly right of way line the following bearings and distances:</p> <ol style="list-style-type: none"> North 07°33'22" West, a distance of 137.30 feet to a point; North 01°51'08" West, a distance of 331.41 feet to a point; North 03°26'40" West, a distance of 296.79 feet to a point; North 34°23'59" West, a distance of 169.21 feet to a point; North 07°53'09" West, a distance of 115.91 feet to a point; THENCE northwesterly and northerly a distance of 189.87 feet along the arc of a curve to the right, having a radius of 608.54 feet and being subtended by a chord which bears North 05°21'14" East, for a distance of 149.91 feet, to a point; THENCE northerly a distance of 188.28 feet along the arc of a curve to the right having a radius of 282.88 feet and being subtended by a chord which bears North 15°27'19" East, for a distance of 186.25 feet, to a point; North 17°29'14" East, a distance of 246.12 feet to a point; North 49°12'07" East, a distance of 263.69 feet to a point; North 16°18'28" East, a distance of 286.29 feet to a point; THENCE northerly a distance of 474.88 feet along the arc of a curve to the left, having a radius of 2291.23 feet and being subtended by a chord which bears North 10°22'59" East, for a distance of 474.13 feet, to a point; North 00°52'52" East, a distance of 317.81 feet to the POINT OF BEGINNING. <p>Said tract or parcel of land containing 11,072,862 Square Feet or 254.194 Acres, more or less.</p>	<div data-bbox="1921 170 2016 446"> <p>811 Know what's below. Call before you dig.</p> </div> <div data-bbox="1921 454 2016 673"> <p>ATWELL 608.840.0000 www.atwellgroup.com</p> </div> <div data-bbox="1921 682 2016 885"> <p>RENEWABLE ENERGY & HARVEST, COUNTY CYNTHIANA, KENTUCKY</p> </div> <div data-bbox="1921 893 2016 1112"> <p>Boylva, r.e. Renewable Energy ATWELL LAND TITLE SERVICES OF THE REBER TRACT AND I BLUEBIRD BOLLAR, LLC BTE 100 HANWAY RD AND STATE ROUTE 100</p> </div> <div data-bbox="1921 1120 2016 1339"> <p>DATE: 4/15/21 BY: [Signature]</p> </div> <div data-bbox="1921 1347 2016 1461"> <p>4 OF 4</p> </div>
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SWA 4/15/21

CONFIDENTIAL

EXHIBIT 7

Owner's Special Warranty Deed

Recording requested by and
when recorded mail to:

BLUEBIRD SOLAR LLC
c/o BayWa r.e. Development LLC
18575 Jamboree Rd. Ste 850
Irvine, CA 92612
Attn: SVP, General Counsel

(space above this line for recorder's use)

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED made and entered into this the ____ day of _____, 20__ by and between **SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001**, whose mailing address is 103 Court Street, Cynthiana, Kentucky 41031, hereinafter called "Grantor", and **BLUEBIRD SOLAR LLC**, a Kentucky limited liability company, whose principal office is located at 18575 Jamboree Rd., Ste. 850, Irvine, CA 92612, hereinafter called "Grantee."

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the mutual exchange of real property between the parties as evidenced by the special warranty deed of Grantee to Grantor of even date herewith, the receipt and sufficiency of which is hereby acknowledged, Grantor sold and does by these presents grant, bargain, sell, alien and convey unto the Grantee, its successors and assigns forever, together with all the improvements, appurtenances and rights thereunto belonging, the following described property, lying and being in Harrison County, Kentucky, and more particularly described on **Exhibit 1** attached hereto (the "Property"):

THIS CONVEYANCE by Grantor to Grantee is made in accordance with a Real Estate Swap Agreement dated _____, 2020 between Grantor and Grantee wherein it was agreed that Grantor would convey the above described real property to Grantee in exchange for certain real property to be conveyed by Grantee to Grantor which real property was conveyed by Grantee to Grantor by deed dated _____, 20____, which deed of conveyance is recorded in Deed Book _____, page _____, Bourbon County Clerk's Office.

TO HAVE AND TO HOLD the Property, together with (i) all and singular right, title and interest in the land, buildings, improvements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining or located thereon, and any reversions, remainders, rents, issues, profits or other estate, rights and benefits of Grantor therefore or therein, if any, and (ii) all right, title and interest, if any, of Grantor in, to and over any streets, roads, or waterways abutting the Property, unto Grantee, its successors

SA 4/5/21

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and assigns forever, with Covenant of SPECIAL WARRANTY, except liens for taxes not yet due and payable and any and all easements, covenants and restrictions of record.

Grantor and Grantee hereby swear and affirm, under penalty of perjury, that the exchange of property is the full consideration herein. The estimated fair cash value of the property transferred here is \$ _____. The Grantee joins this deed for the sole purpose of certifying the consideration.

Send current year tax bill to Grantee c/o BayWa r.e. Development LLC, at 18575 Jamboree Rd., Ste 850, Irvine, CA 92612.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands.

GRANTOR:

**SAM W. ARNOLD, III, AS TRUSTEE
UNDER THE AGNES SMITH MCDOWELL
CHARITABLE TRUST DATED JUNE 22, 2001**

STATE OF KENTUCKY)

COUNTY OF _____)

The foregoing instrument was sworn and acknowledged before me this _____ day of _____, 20[], by SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001, Grantor.

My commission expires _____.

NOTARY PUBLIC, STATE AT LARGE
NOTARY ID# _____

SA 4/5/21

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**EXHIBIT 1 TO SPECIAL WARRANTY DEED
The Property**

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478;

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-foot wide at this point) the following bearings and distances:

14. South 04°02'15" West, a distance of 244.45 feet to a point;
15. North 85°57'00" West, a distance of 10.00 feet to a point;
16. South 04°03'00" West, a distance of 100.00 feet to a point;
17. South 85°57'00" East, a distance of 10.00 feet to a point;
18. South 04°03'00" West, a distance of 450.00 feet to a point;
19. North 85°57'00" West, a distance of 10.00 feet to a point;
20. South 04°03'00" West, a distance of 600.00 feet to a point;
21. South 85°57'00" East, a distance of 10.00 feet to a point;
22. South 04°03'00" West, a distance of 431.00 feet to a point;
23. South 03°57'56" West, a distance of 95.07 feet to a point;
24. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
25. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
26. South 12°33'58" East, a distance of 109.10 feet to a point;
27. THENCE South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar;
28. THENCE leaving the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-foot wide at this point) proceed South 75°01'35" West, a distance of 667.00 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 20°06'11" East, a distance of 303.56 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 24°35'20" East, a distance of 98.17 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 28°23'38" East, a distance of 130.63 feet to an iron pin set, a 1/2-inch rebar;

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THENCE South 36°50'22" East, a distance of 89.92 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 54°02'18" East, a distance of 111.62 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 68°14'33" East, a distance of 78.82 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 80°16'55" East, a distance of 37.16 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 41°01'56" East, a distance of 179.84 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 21°47'27" East, a distance of 303.21 feet to a point on the boundary line of Sam W. Arnold (D.B. 293, Pg. 752);

THENCE North 65°11'21" West, a distance of 2269.07 feet to a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752)) and Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691);

THENCE North 06°53'46" West, a distance of 272.49 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691) and William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE South 83°59'23" East, a distance of 384.19 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE North 04°34'04" East, a distance of 1950.90 feet to an iron pin set, a 1/2-inch rebar, said iron pin being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829 and Joe M. McDaniel (D.B. 140, Pg. 250);

THENCE North 05°41'34" East, a distance of 976.72 feet to an iron pin set, a 1/2-inch rebar, said iron pin, being a corner to Joe M. McDaniel (D.B. 140, Pg. 250) and Joe Patterson, (D.B. 180, Pg. 478);

THENCE South 85°00'44" East, a distance of 1516.40 feet to an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353), said iron pin set being the POINT OF BEGINNING.

Said tract or parcel of land containing 5,486,519 Square Feet or 125.953 Acres, more or less.

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EXHIBIT 8

Owner's Grant of Easement

PREPARED BY AND AFTER
RECORDING RETURN TO:

Bluegrass Solar LLC
c/o BayWa r.e. Development LLC
18575 Jamboree Rd., Suite 850
Irvine, CA 92612
Attn: SVP, General Counsel

(space above this line for recorder's use)

ACCESS AND UTILITY LINE EASEMENT AGREEMENT

THIS ACCESS AND UTILITY LINE EASEMENT AGREEMENT (this "Agreement") is made, dated and effective as of _____, 20__ (the "Effective Date"), between **SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001**, (together with its successors, assigns and heirs, "Grantor"), and **BLUEBIRD SOLAR LLC**, a Kentucky limited liability company (together with its transferees, successors, and assigns, collectively, "Grantee"), and in connection herewith, Grantor and Grantee agree, covenant and contract as set forth in this Agreement. Grantor and Grantee are sometimes referred to in this Agreement as a "Party" or collectively as the "Parties."

RECITALS

- A. Grantor owns certain real property located in Harrison County, Commonwealth of Kentucky, more particularly described on Exhibit 1-A attached hereto and by this reference made a part hereof (the "Property").
- B. The Parties entered into that certain Real Estate Swap Agreement, dated as of _____, 2021 (the "Swap Agreement"), pursuant to which this Agreement is executed and delivered.
- C. Grantee is developing a utility-scale solar energy generating facility (the "Project") on a certain tract of land located west and east of Russell Cave Road (Highway 353) also in Harrison County, Commonwealth of Kentucky, more particularly described on Exhibit 2 attached hereto and by this reference made a part hereof (the "Project Property") and in connection therewith, desires to obtain an access easement and utility line easement, and related rights on, under, over, and across the Property (as initially described and depicted on Exhibit 1-B attached hereto and by this reference made a part hereof, which shall be subject to update pursuant to Section 2 hereof), and Grantor desires to grant such easements and rights, on the terms and conditions set forth herein.
- D. The Parties intend that the access easement and rights granted hereby will be not only for access between the eastern and western parts of Grantee's Project, but also for use during construction thereof. Access improvements will be left in place, at Grantor's option, for the benefit of Grantor upon the termination of this Agreement.

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NOW, THEREFORE, in consideration of the mutual obligations and covenants of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties hereto agree as follows:

1. Grant of Easements.

(a) Grant.

- i. Easement Area #1: Access Easement for Roadway Traffic. Grantor hereby grants, transfers, sells, assigns, and conveys to Grantee an easement appurtenant and right-of-way along, on, over, under, and across the area more particularly described and depicted on Exhibit 1-B ("Easement Area #1"), together with all the rights and appurtenances thereto for purposes of access, ingress and egress to and from the Project Property ("**Easement #1**"). Easement Area #1 will be approximately fifty feet (50') in width.
- ii. Easement Area #2: Underground Utility Line Easement. Grantor hereby grants, transfers, sells, assigns, and conveys to Grantee (A) an easement appurtenant and right-of-way along, on, over, under, and across the area more particularly described and depicted on Exhibit 1-B ("Easement Area #2"), together with all the rights and appurtenances thereto and (B) the right and authority to license, permit, or otherwise agree to the joint use or occupancy of the Easement Area #2 and the line, poles, equipment, devices, system, or other facilities now or hereafter thereon by any other person or entity for electrification, electric transmission or distribution, communications, data transmission, telephone and other similar purposes, provided that any installations to be made below ground shall be placed, at a minimum, three feet (3') below grade (the foregoing (A) and (B) together, collectively, "**Easement #2**"). Grantee may install polls and bore pits on Easement Area #2 but shall make commercially reasonable efforts to locate such polls or pits at the property lines/boundaries. Easement Area #2 will be approximately fifty feet (50') in width.
- iii. Easement Area #3: Highway 353 Access Easement. Grantor hereby grants, transfers, sells, assigns, and conveys to Grantee an easement appurtenant and right-of-way along, on, over, under, and across the area more particularly described and depicted on Exhibit 1-B ("Easement Area #3"), together with all the rights and appurtenances thereto for purposes of access, ingress and egress to and from the Project Property ("**Easement #3**") for purposes of access from Highway 353 for construction and maintenance purposes. Easement Area #3 will be approximately fifty feet (50') in width.

Easement #1, Easement #2 and Easement #3 shall be collectively referred to herein as the "**Easement.**" Easement Area #1, Easement Area #2 and Easement Area #3 shall be collectively referred to herein as the "**Easement Area.**"

(b) Purposes. The Easement, right-of-way, and other rights and privileges herein granted shall include, without limitation:

- i. the right to place, construct, reconstruct, rephase, upgrade, expand the capability of, change the size or number of circuits of, operate, maintain, repair, inspect, patrol, relocate within the Easement Area, rebuild, replace and remove thereon and/or in or upon said land, and underground electric transmission or distribution lines, equipment, or systems consisting of a variable number of wires, cables, poles, towers, and circuits, and all other

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necessary or desirable appurtenances, including, but not limited to, supporting structures, conductors, wires, insulators, racks, cables, conduits, transformers, equipment, manholes, poles, props, anchors and guys, and other facilities, whether made of wood, metal, or other materials (collectively, the "Facilities"), provided that all underground Facilities must be placed at a depth equal to or greater than three feet (3');

- ii. the right to any additional temporary working space about or near the Easement Area on the Property as may be reasonably necessary;
- iii. the right to clear Easement Area #1 of all obstructions, to cut, trim or remove trees and/or shrubbery located on, over or within said Easement Area #1 through any means deemed reasonable and appropriate by Grantee, including the use of machinery and the application of herbicides, and including any control of the growth of other vegetation in or about Easement Area #1 which may incidentally and necessarily result from the means of control employed. Notwithstanding the foregoing, Grantee covenants that the use of herbicides shall be a means of last resort in efforts to clear Easement Area #1, with preference given to machine and manual clearing of the same;
- iv. the right to temporarily use such portion of Grantor's Property along and adjacent to the Easement Area as may be reasonably necessary in connection with the purposes stated or any part thereof; and
- v. the right of free access to the Easement Area at all reasonable hours to perform the aforementioned activities, and at any time to restore service or during an emergency.

- (c) Access. Grantor shall have the right of pedestrian, equipment, and vehicular ingress and egress at all times upon and across the Easement Area #1, and to and from the same upon and across the Property. Grantee shall also have the right of ingress and egress over existing and future roads across the adjacent or remainder property of Grantor for the purpose of obtaining access; provided that existing roads will be improved and altered, and future roads shall be constructed by Grantee and its contractors and representatives, all at Grantee's sole cost and expense. In the event that access is not reasonably available over existing roads, Grantee shall have the right of reasonable ingress and egress over the adjacent Property of Grantor along any route that is reasonable under the circumstances then existing in order to obtain access. Grantee shall have the right to use such portion of the Property along and adjacent to the Easement Area as may be reasonably necessary in connection with the construction, reconstruction, repair, maintenance or other purposes stated above, or any part thereof, it being the intent of the Grantor and Grantee that use of roadways shall be primarily for construction and maintenance of Facilities and secondarily for maintenance of easement roadway improvements and utility line improvements. For the avoidance of doubt and without limiting the foregoing, it is the intention of the Parties that Grantee will use the rights set forth in this Section 1(c) primarily in furtherance of its construction of its Facilities.

2. Easement Area. Within three (3) months from the Effective Date, which may be extended with Grantor's consent which shall not be unreasonably withheld, Grantee shall determine the specific location of Easement Area #1 and Easement Area #3 subject to the Easement. As of the Effective Date, (a) there are two potential locations for the route of the end of Easement Area #1, each depicted on Exhibit 1-B, and the Parties have agreed in good faith consultation that either of such two (2) potential locations are acceptable, as selected by Grantee; and (b) the location of Easement Area #3 may be altered upon request by Grantee and reasonable consent by Grantor, given the current location for the same is inhibited by wetland conditions. Grantee shall inform Grantor (x) of the selected location of

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Easement Area #1, and (y) whether the present location of Easement Area #3 needs to be relocated, each within such three (3) month period. Grantee shall engage a licensed surveyor, at Grantee's sole cost, to prepare the legal descriptions and depiction of the Easement Area. Upon surveyor's completion of the legal descriptions and depiction of the Easement Area and delivery of such descriptions and depiction to Grantor, Grantee may, if it has not already done so as of the Effective Date, (i) update this Agreement by adding the specific legal description and depiction of the total Easement Area as Exhibit 1-B, including the selected locations for Easement Area #1 and Easement Area #3 (as applicable) and (ii) execute and record an instrument which adopts the final Easement Area #1 and Easement Area #3, and thus the final Easement Area, with the revised Exhibit 1-B; provided, however, upon request by Grantee, Grantor shall also execute such recordable instrument.

3. **Term and Termination.**

- (a) **Term.** The term of this Agreement shall commence on the Effective Date and continue until that date which is the forty-fifth (45th) anniversary of the Effective Date (the "**Term**"). The Parties may extend the Term by mutual written agreement.
- (b) **Grantee Termination.** Notwithstanding anything to the contrary set forth in this Agreement, Grantee shall have the right at any time to terminate this Agreement and all of the rights, duties and obligations of the Parties under this Agreement effective upon thirty (30) days' prior written notice given by Grantee to Grantor.
- (c) **Removal Upon Termination.** Upon termination of this Agreement, at Grantor's request, Grantee shall remove the Facilities within the Easement Area to a depth equal to or greater than three feet (3') and restore the Easement Area to a condition reasonably similar as existed prior to installation of the Facilities, reasonable wear and tear excepted. Further, Grantee is not required to remove any right-of-way or road surfaces from the Easement Area. Grantee shall have a continuing right of way to enter and access the Easement Area for the purposes described in this Section 3(c). In the event Grantee fails to remove the Facilities within twelve (12) months after termination of this Agreement, Grantor may have the Facilities removed at Grantee's sole cost and expense (to the extent actually documented), net of any amounts reasonably recoverable by Grantor with respect to the salvage value of the Facilities.

4. **Consideration.** The consideration for the rights granted in this Agreement is the mutual exchange of real property between the Parties pursuant to the Swap Agreement as evidenced by the special warranty deeds of even date herewith, the receipt and sufficiency of which is hereby acknowledged.

It is mutually agreed by the Parties the consideration for the Easements shall be the exchange of real property by the Parties pursuant to the Swap Agreement. Therefore, the grant of the Easements pursuant hereto is conditioned upon the satisfaction of all conditions set forth in the Swap Agreement, including Grantor's receipt of court and administrative approvals described therein. Should Grantor fail to secure the aforementioned approvals, this Agreement shall be of no force or effect, and shall not be recorded in the official real property records of the County in which the Easement Area is located.

5. **Crop Compensation; Timber.** During the Term, Grantor and its tenants shall have the right to maintain farming, agricultural and livestock activities (collectively, "**Farming**") on the Property and Easement Area #2. Should Grantor suffer any damage to Crops as a direct result of Grantee's activities pursuant to this Agreement, as demonstrated by reasonable documentary evidence, Grantee shall pay to Grantor Crop Damages (as defined herein) for such damage. "**Crops**" shall mean planted and

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cultivated crops to be harvested from the Property, such as, but not limited to, rice, wheat, corn, milo, hay and alfalfa, but excluding naturally growing vegetation used solely for onsite livestock grazing or ground cover. "**Crop Damages**" shall be equal to the product of (i) the average annual yield for the damaged Crop on the Property (as reasonably established by Grantor's written records), (ii) the average commodity price over the three (3) calendar years immediately preceding such damage, calculated based on the commodity price for such Crop as published by the United States Department of Agriculture from time to time for such years, and (iii) the total acreage (accounting for partial acres) bearing such Crops damaged by Grantee.

Notwithstanding anything to the contrary contained herein, only Grantor shall be entitled to harvest or otherwise clear merchantable timber on Easement Area #1 up to and including the Effective Date hereof and shall be entitled to one hundred percent (100%) of any proceeds realized therefrom. After the Effective Date, pursuant to Section 1(b)(iii), Grantee shall be entitled to harvest or otherwise clear merchantable timber from Easement Area #1, provided that any revenue or proceeds received for merchantable timber so cleared shall be promptly paid by Grantee to Grantor pursuant to payment instructions provided by Grantor from time to time. For the avoidance of doubt, notwithstanding anything to the contrary contained herein, Grantee may not exercise its right, pursuant to Section 1(b)(iii), to clear merchantable timber from Easement Area #1 on or prior to the Effective Date.

6. **Easement Effectiveness.** The effectiveness of this Agreement is conditioned upon (i) Grantor's receipt of the necessary court and board approvals as required pursuant to the Swap Agreement and (ii) the occurrence of Closing (as defined in the Swap Agreement) under the Swap Agreement. Grantee may not record this Agreement prior to its effectiveness pursuant to this Section 6.

7. **Grantor's Representations, Warranties and Covenants.** Grantor hereby represents, warrants and covenants as follows:
 - (a) **Grantor's Authority.** Grantor is the sole owner of the Property, has good and indefeasible title in fee simple to the Property, and has the authority to execute this Agreement and to grant Grantee the rights granted in this Agreement. As long as Grantee observes the terms and conditions of this Agreement, Grantee shall have the right to quietly and peaceably hold, possess and enjoy all of the rights granted by this Agreement without hindrance or interruption by Grantor or any person lawfully or equitably claiming by, through or under Grantor, or as Grantor's successor(s) in interest.

 - (b) **Hazardous Material.** As of the Effective Date, neither the Property nor Grantor is or has been in violation of any federal, state or local environmental health or safety laws, statutes, ordinances, rules, regulations or requirements (collectively, "**Environmental Laws**"), and Grantor has not received any notice or other communication from any governmental authority alleging that the Property is in violation of any Environmental Law. "Hazardous Materials" means (i) any substance, the presence of which requires investigation, remediation, or other response or corrective action under any Environmental Law, or (ii) any substance which is or hereafter becomes defined as a hazardous waste, hazardous substance, extremely hazardous substance, hazardous material, hazardous matter, hazardous chemical, toxic substance, toxic chemical, pollutant or contaminant, or other similar term, in or pursuant to any Environmental Law, or (iii) any asbestos or asbestos-containing material, PCBs or equipment or articles containing PCBs, petroleum, diesel fuel, gasoline or other petroleum hydrocarbons. Grantor warrants further that no underground storage tanks and no Hazardous Materials are or were located on the Property. Grantor shall not violate any Environmental Laws relating to the Property.

 - (c) **No Interference.** Grantor shall not, nor authorize any other party to, interfere with, Grantee's use of

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the Property for the purposes described in this Agreement, or Grantee's rights under this Agreement. Without limiting the foregoing, Grantor shall not, and shall not allow any third party to, within the Easement Area: erect or install any buildings, structures, antenna, or other improvements; place or store flammable materials; plant trees; place water, sewer or drainage facilities; or alter the elevation of the existing ground surface.

- (d) **Cooperation.** Grantor shall assist and cooperate with Grantee, all at no out-of-pocket expense to Grantor, in applying for, complying with or obtaining any land use permits and approvals or any other permits, licenses, approvals or consents required for the financing, construction, installation, replacement, relocation, maintenance, repair, operation or removal of the Facilities. Grantor shall take no actions in opposition to any of the foregoing, directly or indirectly. Upon Grantor's written request, Grantee shall cooperate in good faith, at no out-of-pocket cost or expense to Grantee, with Grantor's installation of fencing and gates around the outer boundaries of the Easement Area; provided, however, that the installation and presence of any such fencing or other barriers may not in any way interfere with Grantee's installation, maintenance or operation of the Facilities. Grantee shall have reasonable approval rights over the materials and design (including dimensions) of any such fencing and attendant gates, and Grantee shall at all times have possession of keys necessary to open and pass through any gates providing access through such fence lines. The Parties acknowledge that as of the Effective Date, Grantee has no intention of installing any fencing around the Easement Area; provided, however, that Grantee may during the Term elect to erect fences, the location of which shall be subject to Grantor's written consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided that Grantor's denial of consent shall not be deemed unreasonable if the proposed fencing would inhibit or prevent Grantor from reaching its property on either side of the access roads on the real property. Any such Grantee elected fencing shall be installed and maintained at Grantee's sole cost and expense.
- (e) **Liens.** Except as disclosed in the official real property records of Harrison County, or as disclosed in writing by Grantor to Grantee prior to the Effective Date, Grantor's fee simple title to the Property is free and clear of all liens, encumbrances, easements, leases, mortgages, deeds of trust, security interests, claims, disputes, or other third-party rights or options (collectively, "**Liens**"). Grantee shall be entitled to obtain, and Grantor shall cooperate with Grantee in obtaining, a subordination agreement, non-disturbance agreement or other appropriate agreement from any party holding a Lien that might interfere with Grantee's rights under this Agreement, at no out-of-pocket expense to Grantor.
- (f) **Taxes and Assessments.** Grantor shall pay all taxes, assessments, and other governmental charges that during the Term of this Agreement shall be levied, assessed or imposed upon, or arise in connection with, the Property; provided, however, that Grantee shall pay directly for any increase in such taxes, assessments or other governmental charges accruing during the Term to the extent resulting directly and solely from the presence of the Facilities on the Easement Area or Grantee's use of the same pursuant hereto, provided, further, that Grantor shall deliver to Grantee copies of all notices of or relating to all such charges no later than the earlier of two (2) weeks following Grantor's receipt of each such notice or forty-five (45) days prior to the date that any such charge is due and payable.
8. **Grantee's Representations, Warranties and Covenants.** Grantee hereby represents, warrants and covenants as follows:
- (a) **Grantee's Authority.** Grantee has the authority to execute this Agreement. Each person signing this Agreement on behalf of Grantee is authorized to do so.

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- (b) **Restoration.** Grantee shall not damage any of Grantor's improvements when Grantee constructs the Facilities. In the event Grantee's construction activities on the Property damage any of Grantor's property or improvements on the Property, Grantee shall be obligated to either (i) restore the improvement to substantially the same condition as it was prior to being damaged by Grantee or (ii) compensate Grantor in an amount that reasonably reflects the cost to repair the damage caused by Grantee. Upon completion of construction of the Facilities, Grantee shall restore the portion(s) of the Property outside the Easement Area disturbed by Grantee to a condition reasonably similar to its condition prior to the commencement of such work, reasonable wear and tear excepted.
9. **Default; Remedies.** If a Party (the "**Defaulting Party**") fails to perform an obligation under this Agreement (an "**Event of Default**"), such Defaulting Party shall not be in breach of the terms of this Agreement if, (a) in the case of the failure to pay when due any amounts payable under this Agreement (a "**Monetary Default**"), the Defaulting Party pays the past due amount within thirty (30) days after receiving written notice of the Event of Default (a "**Notice of Default**") from the other Party (the "**Non-Defaulting Party**"), or (b) in the case of an Event of Default other than a Monetary Default (a "**Non-Monetary Default**"), the Event of Default is cured within thirty (30) days after receiving a Notice of Default; provided, that if the nature of the Non-Monetary Default requires, in the exercise of commercially reasonable diligence, more than thirty (30) days to cure then the Defaulting Party shall not be in default as long as it commences performance of the cure within thirty (30) days and thereafter continuously pursues such cure with commercially reasonable diligence. Should an Event of Default remain uncured by the Defaulting Party, the Non-Defaulting Party shall have and shall be entitled at its option and without further notice, but subject to the limitations set forth in Exhibit 3 attached hereto, to exercise any remedy available at law or equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such default; provided, however, that damages shall in all cases exclude punitive, consequential, special, exemplary, speculative or indirect damages.
10. **Assignment.** Grantee shall have the right, without obtaining the consent of Grantor, to do any of the following with respect to all or any portion of this Agreement, the Easement, the Easement Area or the Facilities: encumber, hypothecate, mortgage, pledge, or otherwise finance the same in favor of the holder of any mortgage, deed of trust or other security interest in Grantee's rights under this Agreement and the Facilities (each an "**Easement Mortgage**"); grant co-easements, separate easements, sub-easements, licenses or similar rights (however denominated) to one or more persons or entities (each an "**Assignee**"); grant to one or more Assignees joint rights of ownership in and/or use of the Facilities and the Easement; or sell, convey, lease, assign, mortgage, encumber, hypothecate or transfer to one or more Assignees or Easement Mortgagees any or all right or interest of Grantee in all or any portion of this Agreement, the Easement, the Easement Area or the Facilities. Grantee shall promptly notify Grantor in writing of any such assignment, mortgage, pledge or hypothecation and the name and address of each Assignee or Easement Mortgagee. Upon Grantee's assignment of its entire interest under this Agreement as to all or any portion of the Easement, or as may otherwise be provided in the applicable grant, sale, lease, conveyance or assignment document, Grantor shall recognize the Assignee as Grantee's proper successor, the Assignee shall have all of the assigned rights, benefits and obligations of Grantee under and pursuant to this Agreement. Grantee shall remain jointly and severally liable with the Assignee for all obligations under this Agreement unless such Assignee agrees in writing to assume all of Grantee's obligations hereunder, in which case Grantee shall be released from liability for obligations accruing on or after the date of such assumption. Grantor shall notify Grantee in writing of any sale, assignment, mortgage or transfer of any of Grantor's interest in the Property, or any part thereof. Until Grantee receives such notice, Grantee shall have no duty to any successor Grantor. Notwithstanding this Section 10, this Agreement may not be amended absent a writing executed by both Parties.

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11. **Covenants for Easement Mortgagees' Benefit.** Upon any assignment or transfer of Grantee's interest in this Agreement or the Easement to an Easement Mortgagee (made pursuant to Section 10 hereof), the Parties expressly agree between themselves and for the benefit of any Easement Mortgagee to the terms and conditions set forth on Exhibit 3 attached hereto and incorporated herein by reference. **Non-Disturbance Agreements.** If Grantor's interest in the Property is encumbered by a Lien, Grantor shall use commercially reasonable efforts, provided Grantor does not incur any financial cost, to deliver to Grantee a non-disturbance agreement executed by such Lien holder, which agreement shall be in form and substance reasonably acceptable to such Lien holder and Grantee.

13. **Insurance.** Grantee agrees at its own expense to have a general commercial liability insurance policy with a coverage limit of at least [REDACTED] in effect during the Term to cover any personal injuries or accidents that may occur as a direct result of Grantee's activities on the Easement Area (including any activities of any of Grantee's employees, consultants, contractors or other agents) and prior to commencing construction on the Easement Area will add Grantor as an additional insured on such policy. Grantee shall provide Grantor a certificate of insurance prior to commencing construction on the Easement and thereafter as renewed, evidencing that Grantor has been added as an additional insured on said policy.

14. **Indemnity.**

(a) **Indemnity by Grantee.** Grantee shall defend, protect, indemnify, and hold harmless Grantor from and against any and all damages, fines, claims, liabilities, costs, expenses, obligations, or losses due to personal injury or property damage caused directly or indirectly by the breach by Grantee of any of its obligations under this Agreement or by the operation of the Facilities or other activities of Grantee, its agents, contractors, employees, licensees and permittees on or about the Easement Area; provided however that such liability or loss is not due to any fraud or acts, omissions, negligence or willful misconduct of Grantor or its agents, contractors, employees, guests, licensees or permittees, or from the breach by Grantor of its obligations hereunder. Grantee's indemnification and defense obligations under this Agreement shall not include or apply to loss of rent or profits or consequential, exemplary, punitive, or special damages, all of which are hereby expressly waived by Grantor.

(b) **Indemnity by Grantor.** Grantor shall defend, protect, indemnify, and hold harmless Grantee from and against any and all damages, fines, claims, liabilities, costs, expenses, obligations, or losses due to personal injury or property damage caused directly or indirectly by the breach by Grantor of any of its obligations under this Agreement or use of the Easement Area by Grantor; provided however that such liability or loss is not due to any fraud or acts, omissions, negligence or willful misconduct of Grantee or its agents, contractors, employees, guests, licensees or permittees, or from the breach by Grantee of its obligations. Grantor's indemnification and defense obligations under this Agreement shall not include or apply to loss of rent or profits or consequential, exemplary, punitive, or special damages, all of which are hereby expressly waived by Grantee.

15. **Minerals.** This Section 15 shall apply only if Grantor owns any mineral interests within the Easement Area. Grantee does not acquire by this Agreement any such interests, but expressly takes subject thereto, and Grantor reserves and shall retain all oil, gas, and other minerals in, on and under the Easement Area; provided, however, that Grantor shall not be permitted to drill or operate equipment for the production or development of minerals on the surface of the Easement Area, or so near the boundary thereof as to threaten the subjacent or lateral support for the same, but will be permitted to extract the oil and other minerals from and under the Property by directional drilling and other means, so long as such activities are 500 feet beneath the surface and do not damage, destroy, injure, or cause the removal of the Facilities and/or

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interfere with Grantee's use of the Easement for the purposes permitted hereunder.

16. **Miscellaneous.**

- (a) **Confidentiality.** To the fullest extent allowed by law, and subject to any disclosures necessary or convenient to Owner's satisfaction of the obligations set forth in Section 6(c) of the Swap Agreement relating to court and administrative approvals of the transactions contemplated thereby, Grantor shall maintain in the strictest confidence, for the sole benefit of Grantee, all information pertaining to the financial terms of or payments under this Agreement, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Grantor or its employees or agents or (ii) was already known to Grantor at the time of disclosure and that Grantor is free to use or disclose without breach of any obligation to any person or entity. To the fullest extent permitted by law, Grantor shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Grantor may provide information as required or appropriate to attorneys, accountants, lenders, or third parties who may be assisting Grantor or with whom Grantor may be negotiating in connection with the Property, Grantor's financial or other planning, or as may be required pursuant to lawful process, subpoena or court order, or as necessary to enforce this Agreement, in each case so long as Grantee advises the person receiving such information of the confidentiality thereof and obtains the agreement of said person not to disclose such information.
- (b) **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon Grantor and Grantee and, to the extent provided in any assignment or other transfer under Section 10 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Property.
- (c) **Recording of Agreement.** Grantee shall have the right to record this Agreement in the official real property records of the Harrison County Clerk's Office. Once this Agreement is updated with Exhibit 1-B, Grantee shall have the right to record the instrument which adopts the final Easement Area. In the event this Agreement terminates, Grantee shall execute and record, within thirty (30) days of the effective date of termination, a notice of termination.
- (d) **Notices.** All notices which either Party hereto may be required or desire to serve upon the other Party shall be in writing and shall be served upon such other Party (i) by personal service upon such other Party, whereupon service shall be deemed complete; (ii) by Federal Express or other nationally-recognized overnight delivery service, whereupon service shall be deemed complete the next business day; or (iii) by mailing a copy thereof by certified or registered mail, with return receipt requested, whereupon service shall be deemed complete on the day actual delivery is made, as shown by the certification receipt, or at the expiration of the fourth (4th) Business Day after the date of mailing, whichever first occurs.

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If to Grantor:

Sam W. Arnold, III, Trustee
Under the Agnes Smith McDowell
Charitable Trust dated June 22,2001
103 Court Street
Cynthiana, Kentucky 41031

If to Grantee:

BLUEBIRD SOLAR LLC
Attn: SVP, General Counsel
c/o BayWa r.e. Development LLC
18575 Jamboree Rd., Suite 850
Irvine, CA 92612

Any Party may change its address for purposes of this Section 16(d) by giving written notice of such change to the other parties in the manner provided in this Section 16(d). If Grantee has provided notice to Grantor of an Easement Mortgagee and Easement Mortgagee's address, then all notices to Grantee hereunder shall simultaneously be delivered to Easement Mortgagee.

- (e) Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Grantor and Grantee respecting its subject matter. Any agreement, understanding or representation respecting the Property, the Easement, or any other matter referenced in this Agreement not expressly set forth in this Agreement or a subsequent writing signed by both Parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. The Parties shall cooperate in amending this Agreement from time to time to include any provision that may be reasonably requested for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of, or satisfying the request of, any Assignee or an Easement Mortgagee.
- (f) Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky.
- (g) Arbitration of Disputes. Any dispute, controversy or claim ("**Dispute**") arising out of or in relation to this Agreement, including the validity, invalidity, breach or termination thereof shall be resolved in accordance with the procedure in this Section 16(g). The Party raising any Dispute shall first serve written notification of the Dispute to the other Party (a "**Dispute Notice**"). Within fifteen (15) days of the service of a Dispute Notice one (1) director or other senior representative of each Party shall meet to seek to resolve the Dispute. Any Dispute not resolved within fifteen (15) days of service of the Dispute Notice for any reason (including a Dispute that has not been resolved because no meeting has taken place) may be referred by either Party to binding arbitration administered by the American Arbitration Association ("**AAA**") under its Commercial Arbitration Rules ("**AAA Rules**"). To the extent possible in light of the nature of the Dispute, the arbitrators shall (i) apply a "baseball" or "last offer" arbitration procedure, whereby the arbitrators shall request each Party to submit to the arbitrator and exchange with each other, in accordance with a procedure to be established by the arbitrators, its final position on the award that it believes it is entitled to obtain; and (ii) the arbitrators shall award only one or the other of the two positions submitted by the Parties. The seat, or legal place, of arbitration shall be Lexington, Kentucky, United States. There shall be one (1) independent arbitrator selected by AAA using a list method (see E-4 of the AAA Rules). The language of the arbitration shall be English. The arbitrators shall not (A) award any punitive or exemplary damages; or (B) award damages inconsistent with this Agreement, and the Parties irrevocably waive the right to collect any damages inconsistent with the foregoing. Without limit, nothing contained herein will be construed to permit the arbitrator or any court or any other forum to award punitive or exemplary damages. The Parties shall take all reasonable actions (including implementing an expedited discovery and hearing schedule) to seek to conclude the final hearing within sixty (60) days after the filing of the Demand for Arbitration with the AAA. The

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arbitral tribunal shall seek to issue the final Award within thirty (30) days of the conclusion of the final hearing. Judgment on the Award rendered by the arbitral tribunal may be entered by any court having jurisdiction thereof. Each Party will pay its legal fees and costs related to the arbitration (including witness and expert fees). Except as necessary in court proceedings to enforce the arbitration provisions in this Section 16(g) or an award rendered hereunder, to obtain interim relief, or as otherwise required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Neither Party shall take any action to force a resolution of a Dispute by any judicial or similar process, except to the limited extent necessary to (X) obtain equitable or interim relief, including injunctive relief, to preserve the status quo, prevent irreparable harm arising from the violation of a Party's rights regarding confidential information or intellectual property during the pendency of the resolution procedures set forth in this Section 16(g), (Y) enforce a final Award rendered in accordance with this Section 16(g) or (Z) to compel arbitration. The courts of the Commonwealth of Kentucky shall have jurisdiction to hear any such actions stated in (X) through (Z).

- (h) Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.
- (i) No Third-Party Beneficiaries. Nothing contained in this Agreement shall be deemed or construed by the Parties or by any third person to create a third-party beneficiary other than with respect to the lenders, investors, successors and assigns of either of the Parties.
- (j) Headings. The headings of the sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part thereof.
- (k) Counterparts. This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts with the same effect as if all signatory parties had signed the same document, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.
- (l) Eminent Domain. If all or any portion of the Easement Area is taken by, or conveyed to, any governmental or quasi-governmental entity as a result of an eminent domain proceeding, then nothing herein shall affect the right of Grantee to receive from such governmental or quasi-governmental entity compensation or damages for any losses that it suffers as a result thereof. Both Grantor and Grantee shall have the right to pursue their respective claims for damages in connection with any eminent domain proceeding. In the event that the Easement Area or the purpose of the Easement is materially impacted by any eminent domain proceeding, Grantor shall relocate the Easement Area to a different location on the Property that is reasonably suitable to Grantee.
- (m) Joint Grantor. If one or more persons, partnerships, corporations, trusts or other entities execute this Agreement as Grantor or have an ownership interest in the Property from time to time, the duties, covenants and obligations of Grantor under this Agreement shall be the joint and several obligations of each such person, partnership, corporation, trust or other entity. All such persons, partnerships, corporations, trusts or other entities agree that they shall be solely responsible for

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allocating any payments made under this Agreement between themselves and that Grantee shall have no obligation to make any allocation.

- (n) No Dedication of Public Use. Nothing contained in this Easement Agreement shall be deemed a gift or dedication of all or any portion of the Grantor Property for the general public or for any public use or purpose whatsoever.
- (o) Survival. The Parties' respective indemnification obligations under this Agreement shall survive the termination of this Agreement.
- (p) Easement in Gross. The Easement and other rights granted by Grantor in this Agreement are easements in gross, and the Easement and other rights granted to Grantee herein are personal to Grantee and its successors and assigns for the benefit of Grantee (and its successors and assigns), as owner of the Easement.
- (q) No Overburdening. Grantor hereby acknowledges and agrees that no use of or improvement to the Easement or any portion thereof for the purposes set forth in this Agreement, no transfer of all or any portion of the Easement Areas, and no use or improvement of the Easement Areas or any portion thereof for the purposes set forth in this Agreement resulting from any such transfer, shall, separately or in the aggregate, constitute an overburdening of the Easement Areas.
- (r) Recitals & Exhibits. The Recitals above and the Exhibits attached hereto are incorporated herein by reference as if set forth in the body of this Agreement.
- (s) Ownership of Facilities. Grantee shall at all times retain all right, title and interest in and to the Facilities and shall have the right to remove them (or to allow them to be removed) from the Easement Area at any time. Grantor shall have no ownership interest in or to any Facilities. Nothing in this Agreement shall be construed as requiring Grantee to install or operate the Facilities.

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GRANTEE:

BLUEBIRD SOLAR LLC,
a Kentucky limited liability company

By _____
Title _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

This instrument prepared by:

GNA
4/5/21

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EXHIBIT 1-A TO EASEMENT AGREEMENT

Legal Description of the Property

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a one-half inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478, and also being the POINT OF BEGINNING;

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) the following bearings and distances:

1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;
7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar on the westerly right-of-way line of Russell Cave Road, said point being the POINT OF BEGINNING;

THENCE continuing along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) South 12°33'58" East, a distance of 27.63 feet to a point;

THENCE continuing along the said westerly right-of-way line South 16°14'53" East, a distance of 361.27 feet to a point

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THENCE continuing along the said westerly right-of-way line southerly a distance of 922.45 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a chord which bears South 02°42'27" East, for a distance of 913.89 feet, to a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752);

THENCE leaving the said westerly right-of-way line of Russell Cave Road proceed along the northerly boundary line of Sam W. Arnold North 65°11'21" West, a distance of 113.04 feet to a point;

THENCE leaving said boundary line proceed North 21°47'27" West, a distance of 303.21 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 41°01'56" West, a distance of 179.84 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 80°16'55" West, a distance of 37.16 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 68°14'33" West, a distance of 78.82 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 54°02'18" West, a distance of 111.62 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 36°50'22" West, a distance of 89.92 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 28°23'38" West, a distance of 130.63 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 24°35'20" West, a distance of 98.17 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 20°06'11" West, a distance of 303.56 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 75°01'35" East, a distance of 667.00 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 567,245 Square Feet or 13.022 Acres, more or less.

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EXHIBIT 1-B TO EASEMENT AGREEMENT

Legal Descriptions of Easement Area #1, Easement Area #2 and Easement Area #3

Easement Area #1:

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at a point located on the easterly right-of-way line of Russell Cave Road (Ky 353) said right-of-way being 100-foot wide at this point, said point having Kentucky State Plane coordinates of Northing: 290,104.1868, Easting: 1,608,277.8301, said point being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road proceed South 87°10'24" East, a distance of 271.32 feet to a point;

THENCE South 86°22'50" East, a distance of 288.91 feet to a point;

THENCE South 84°29'16" East, a distance of 130.97 feet to a point;

THENCE South 86°13'26" East, a distance of 179.44 feet to a point;

THENCE North 70°04'00" East, a distance of 131.46 feet to a point;

THENCE North 65°57'51" East, a distance of 187.80 feet to a point;

THENCE North 12°41'35" East, a distance of 35.87 feet to a point;

THENCE North 28°53'07" East, a distance of 86.39 feet to a point;

THENCE South 82°31'33" East, a distance of 183.91 feet to a point;

THENCE South 85°56'28" East, a distance of 1186.80 feet to a point;

THENCE South 33°23'28" East, a distance of 523.67 feet to a point;

THENCE South 48°48'16" West, a distance of 50.47 feet to a point;

THENCE North 33°23'28" West, a distance of 505.84 feet to a point;

THENCE North 85°56'28" West, a distance of 1163.61 feet to a point;

THENCE North 82°31'33" West, a distance of 151.30 feet to a point;

THENCE South 28°53'07" West, a distance of 45.18 feet to a point;

THENCE South 12°41'35" West, a distance of 53.83 feet to a point;

THENCE South 65°57'51" West, a distance of 214.66 feet to a point;

THENCE South 70°04'00" West, a distance of 143.75 feet to a point;

THENCE North 86°13'26" West, a distance of 190.69 feet to a point;

THENCE North 84°29'16" West, a distance of 130.90 feet to a point;

THENCE North 86°22'50" West, a distance of 287.74 feet to a point;

THENCE North 87°10'24" West, a distance of 264.73 feet to a point on the easterly right-of-way line of Russell Cave Road (Ky 353) said right-of-way being 100-foot wide at this point;

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THENCE along the said easterly right-of-way line northerly a distance of 50.39 feet along the arc of a curve to the left, having a radius of 2051.63 feet and being subtended by a chord which bears North 04°17'09" West, for a distance of 50.39 feet, to the POINT OF BEGINNING.

Said tract or parcel containing 158,964 Square Feet or 3.649 Acres, more or less.

The surveys attached to the end of this Exhibit 1-B indicate two (2) potential locations for the tail end of Easement Area #1. Grantee shall inform Grantor of its selection by written notice prior to exercising its rights pursuant to Easement #1, and upon delivery of such notice, may update this Agreement to properly reflect the location of Easement Area #1. Grantor shall cooperate with Grantee's efforts to so update this Agreement, all at no out-of-pocket cost to Grantor.

Easement Area #2:

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at a point located on the easterly right-of-way line of Russell Cave Road (Ky 353) said right-of-way being 100-foot wide at this point, said point having Kentucky State Plane coordinates of Northing: 290,970.8441, Easting: 1,608,075.7703, said point being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road proceed South 90°00'00" East, a distance of 30.73 feet to a point;

THENCE South 69°32'52" East, a distance of 3331.25 feet to a point;

THENCE South 48°48'16" West, a distance of 56.82 feet to a point;

THENCE North 69°32'52" West, a distance of 3295.24 feet to a point;

THENCE North 90°00'00" West, a distance of 11.23 feet to a point on the easterly right-of-way line of Russell Cave Road (Ky 353) said right-of-way being 100-foot wide at this point;

THENCE along the said easterly right-of-way line northerly North 12°33'58" West, a distance of 25.68 feet to a point;

THENCE continuing along the said easterly right-of-way line northerly a distance of 25.41 feet along the arc of a curve to the left, having a radius of 2427.11 feet and being subtended by a chord which bears North 11°05'42" West, for a distance of 25.41 feet, to a point to the POINT OF BEGINNING.

Said tract or parcel of land containing 166,720 Square Feet or 3.827 Acres, more or less.

Easement Area #3:

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478);

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-foot wide at this point) the following bearings and distances:

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1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;
7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 109.10 feet to a point;
14. THENCE South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar;
15. THENCE southerly a distance of 333.97 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a chord which bears South 11°20'45" East, for a distance of 333.56 feet, to the POINT OF BEGINNING;
16. THENCE continuing southerly along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-foot wide at this point) a distance of 50.21 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a chord which bears South 05°42'23" East, for a distance of 50.21 feet, to a point;

THENCE leaving the said westerly right-of-way line proceed South 89°28'36" West, a distance of 530.39 feet to a point;

THENCE North 54°02'18" West, a distance of 37.65 feet to 1/2-inch rebar set;

THENCE North 36°50'22" West, a distance of 34.27 feet to a point;

THENCE North 89°28'36" East, a distance of 576.42 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 27,867 Square Feet or 0.640 Acres, more or less.

Pursuant to Section 2 of the Agreement, this Easement Area #3 is subject to relocation upon request by Grantee, subject to Grantor's reasonable consent to avoid real property delineated as wetlands.

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EXHIBIT 2 TO EASEMENT AGREEMENT

Legal Description of the Project Property

To be determined by Grantee and Grantor prior to the Closing Date under the Swap Agreement and attached here as of Closing.

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EXHIBIT 3 TO EASEMENT AGREEMENT

Easement Mortgagee Provisions

Upon any assignment or transfer of Grantee's interest in this Agreement or the Easement to an Easement Mortgagee (made pursuant to Section 8 hereof), the Parties agree as follows:

(a) They will not amend, modify or cancel, terminate, surrender or release this Agreement without the prior written consent of each Easement Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Grantor shall simultaneously provide a copy of any Notice of Default provided to Grantee hereunder to each Easement Mortgagee at the notice address provided by Grantee pursuant to Section 8.

(c) Any Easement Mortgagee shall have the same period after delivery of Notice of Default to the Easement Mortgagee to remedy the Event of Default, or cause the same to be remedied, as is given to Grantee after delivery of Notice of Default, plus, in each instance, sixty (60) additional days; provided that such 60-day period shall be extended for a Non-Monetary Default by the time reasonably required to complete such cure, including the time required for the Easement Mortgagee to perfect its right to cure such Non-Monetary Default by obtaining possession of Grantee's interest in the Easement (including possession by a receiver) or by instituting and consummating foreclosure proceedings, provided the Easement Mortgagee acts with reasonable diligence. The Easement Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing Events of Default. Grantor expressly consents to such substitution, agrees to accept such performance, and authorizes the Easement Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Easement Area to complete such performance with all the rights, privileges and obligations of the original Grantee hereunder. Grantor shall not have the right to terminate this Agreement prior to expiration of the cure periods available to an Easement Mortgagee as set forth above. Notwithstanding anything to the contrary contained herein, until such Easement Mortgagee obtains the interests of Grantee in this Agreement (whether pursuant to foreclosure of the Easement Mortgagee's lien or otherwise), no Easement Mortgagee shall have the obligation to cure any Event of Default of Grantee and no Easement Mortgagee shall be deemed an Assignee or transferee of this Agreement so as to require that such Easement Mortgagee assume the performance of any of the covenants or agreements on the part of Grantee to be performed hereunder.

(d) During any period of possession of the Easement by an Easement Mortgagee (or a receiver requested by such Easement Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by an Easement Mortgagee, the Easement Mortgagee shall pay or cause to be paid all monetary charges payable by Grantee hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Grantee's interest in the Easement or this Agreement by the Easement Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Easement Mortgagee or party acquiring title to Grantee's interest shall, as promptly as reasonably possible, commence the cure of all Events of Default hereunder and thereafter diligently process such cure to completion, whereupon Grantor's right to terminate this Agreement based upon such Events of Default shall be deemed waived.

(e) In the case of termination of this Agreement as a result of any Event of Default, foreclosure, or the termination, rejection or disaffirmance of this Agreement due to bankruptcy, insolvency or appointment of a receiver in bankruptcy for Grantee, Grantor shall give prompt notice to each Easement Mortgagee. Grantor shall, upon written request of an Easement Mortgagee, so long as made within forty-five (45) days after notice from Grantor to such Easement Mortgagee, enter into a new easement agreement with such Easement Mortgagee, or its designee, within twenty (20) days after the receipt of such request. Such new easement agreement shall be effective as of the Effective Date, and upon the same terms, covenants,

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conditions and agreements as contained in this Agreement. Coincident with the entry of a new easement agreement as provided herein, Grantor shall reissue to such Easement Mortgagee any easements, licenses or other interests respecting the Property which any Grantor may have granted to Grantee in connection with this Agreement and the transactions contemplated thereby. Upon the execution of any such new easement agreement, the Easement Mortgagee shall (i) pay Grantor any amounts which are due to Grantor from Grantee, (ii) pay Grantor any and all amounts which would have been due under this Agreement (had this Agreement not been terminated) from the date of the termination of this Agreement to the date of the new easement agreement, and (iii) agree in writing to perform or cause to be performed all of the other covenants and agreements set forth in this Agreement to be performed by Grantee to the extent that Grantee failed to perform the same prior to the execution and delivery of the new easement agreement. Grantor hereby agrees with and for the benefit of each Easement Mortgagee that the provisions of this Paragraph (e) shall survive termination, rejection or disaffirmation of this Agreement whether by default or as a result of the bankruptcy or insolvency of Grantee and shall continue in full force and effect thereafter to the same extent as if this Paragraph (e) were a separate and independent instrument.

(f) Grantor shall within ten (10) days of any request execute and deliver to Grantee or its Easement Mortgagee such estoppel certificates (certifying as to such matters as Grantee or its Easement Mortgagee may reasonably request, including without limitation that no Event of Default then exists under this Agreement, if such be the case), consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Grantee, any assignee or Easement Mortgagee may reasonably request from time to time. If an estoppel certificate is requested but not timely provided as required by this Paragraph (f), all matters requested for certification in such estoppel certificate shall conclusively be deemed true and accurate for all purposes and may be conclusively relied upon by the requesting party (and, if applicable, such requesting party's lenders or potential assignees). The failure of Grantor to deliver such statement within such time shall be conclusive evidence upon Grantor that this Agreement is in full force and effect and has not been modified, and there are no uncured Events of Default by Grantee under this Agreement.

(g) No payment made to Grantor by an Easement Mortgagee shall constitute an agreement that such payment was, in fact, properly due under the terms of this Agreement; and an Easement Mortgagee, having made any payment to Grantor pursuant to Grantor's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.

(h) There shall be no merger of this Agreement, or of the easement interest created by this Agreement, with the fee estate in the Property by reason of the fact that this Agreement or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property and all persons (including an Easement Mortgagee) having an interest in this Agreement or in the interest of Grantor and/or Grantee shall join in a written instrument effecting such merger and shall duly record the same.

(i) Grantor shall deliver any and all notices given to Grantee hereunder simultaneously to any Easement Mortgagee at the address of such Easement Mortgagee provided to Grantor. No such notice shall be effective as to such Easement Mortgagee unless such delivery has occurred.

SM 4/5/21

EXHIBIT 9

Owner's Certification of Trust

[Redacted text block containing multiple lines of blacked-out content]

SMA 4/5/21

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[Redacted]

SNA 4/5/21

[REDACTED]

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EXHIBIT 10

Buyer's Special Warranty Deed

(space above this line for recorder's use)

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED made and entered into this the ____ day of _____, 20__ by and between **BLUEBIRD SOLAR LLC**, a Kentucky limited liability company, whose principal office is located at 18575 Jamboree Rd., Suite 850, Irvine, CA 92612, hereinafter called "Grantor", and **SAM W. ARNOLD, III, AS TRUSTEE OR HIS SUCCESSORS IN TRUST, UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001**, whose mailing address is 103 Court Street, Cynthiana, Kentucky 41031, hereinafter called "Grantee".

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the mutual exchange of real property between the parties as evidenced by deed of conveyance of Grantee to Grantor of even date herewith, the receipt and sufficiency of which is hereby acknowledged, Grantor sold and does by these presents grant, bargain, sell, alien and convey unto the Grantee, its successors and assigns forever, together with all the improvements, appurtenances and rights thereunto belonging, the following described property, lying and being in Bourbon County, Kentucky, and more particularly described on **Exhibit 1** attached hereto (the "Property"):

THIS CONVEYANCE by Grantor to Grantee is made in accordance with a Real Estate Swap Agreement dated _____, 2020 between Grantor and Grantee wherein it was agreed that Grantor would convey the above described real property to Grantee in exchange for certain real property to be conveyed by Grantee to Grantor which real property was conveyed by Grantee to Grantor by deed dated _____, 20____, which deed of conveyance is recorded in Deed Book _____, page _____, Harrison County Clerk's Office.

TO HAVE AND TO HOLD the Property, together with (i) all and singular right, title and interest in the land, buildings, improvements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining or located thereon, and any reversions, remainders, rents, issues, profits or other estate, rights and benefits of Grantor therefore or therein, if any, and (ii) all right, title and interest, if any, of Grantor in, to and over any streets, roads, or waterways abutting the Property, unto Grantee, its successors and assigns forever, with Covenant of SPECIAL WARRANTY, except liens for taxes not yet due and payable and any and all easements, covenants and restrictions of record.

Grantor and Grantee hereby swear and affirm, under penalty of perjury, that the exchange of property is the full consideration herein. The estimated fair cash value of the property transferred here is \$ _____. The Grantee joins this deed for the sole purpose of certifying the consideration.

S/A 9/5/21

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GRANTEE:



**SAM W. ARNOLD, III, AS TRUSTEE
UNDER THE AGNES SMITH MCDOWELL
CHARITABLE TRUST DATED JUNE 22, 2001**

STATE OF KENTUCKY)

COUNTY OF _____)

The foregoing instrument was sworn and acknowledged before me this _____ day of _____, 20[], by SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001, Grantee.

My commission expires _____.

NOTARY PUBLIC, STATE AT LARGE
NOTARY ID# _____

This instrument prepared by:

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EXHIBIT 1 TO SPECIAL WARRANTY DEED

Bourbon County, Kentucky
(Deed Book 207, Page 441)

Being Parcel Identification No. 008-00-00-002.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron rod found with cap located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 37°08'49" East, a distance of 577.95 feet to a point being a corner to Agnes McDowell;

THENCE South 36°10'24" East, a distance of 597.99 feet to a point being a corner to Agnes McDowell;

THENCE North 57°33'53" East, a distance of 494.37 feet to a point being a corner to Agnes McDowell and Agnes S. McDowell, (D.B. 109, Page 186);

THENCE South 51°44'49" East, a distance of 424.22 feet to a point being a corner to Agnes S. McDowell;

THENCE South 46°14'59" East, a distance of 592.17 feet to a point being a corner to Agnes S. McDowell;

THENCE South 59°42'24" East, a distance of 604.06 feet to a point being a corner to Agnes S. McDowell (D.B. 109, Page 186), and Carol M. Ricker, (D.B. 235, PG 175), and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE North 76°51'36" West, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 47°09'03" West, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 40°55'17" East, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 52°42'40" West, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 54°48'35" West, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE North 34°29'36" East, a distance of 263.71 feet to an iron pin found, a one-half inch rebar being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc.;

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THENCE North 55°24'48" West, a distance of 357.55 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc., and Hinkle Holding Company, LLC;

THENCE North 21°40'18" East, a distance of 584.89 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°13'41" West, a distance of 346.15 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 22°04'20" East, a distance of 276.53 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°20'05" West, a distance of 238.71 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 59°23'28" West, a distance of 144.13 feet to a point being a corner to Hinkle Holding Company, LLC and also on the easterly right-of-way line of Russell Cave Road (Ky 353) being 100-feet wide at this point;

THENCE along the said easterly right-of-way line of Russell Cave Road North 30°25'32" East, a distance of 389.60 feet to a point;

THENCE continuing along the said easterly right-of-way line North 30°51'12" East, a distance of 348.66 feet to a point;

THENCE along the said easterly right-of-way line North 30°24'04" East, a distance of 283.30 feet to a point;

THENCE along the said easterly right-of-way line North 30°29'03" East, a distance of 147.46 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 4,732,147 Square Feet or 108.635 Acres, more or less.

AND

Being Parcel Identification No. 008-00-00-001.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at a point located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 55°10'38" East, a distance of 607.37 feet to an

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iron pin found and being a corner to Hinkle Holding Company, LLC, and to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE South 55°06'09" East, a distance of 300.63 feet to a point being a corner to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611) and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE South 54°48'35" East, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 52°42'40" East, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 40°55'17" West, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 47°09'03" East, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 76°51'36" East, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker (D.B. 235, PG 1 75)

THENCE South 27°01'19" East, a distance of 1487.11 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker;

THENCE South 54°31'01" East, a distance of 444.62 feet to a point Birtle L. & Patricia H. Spencer and Carol M. Ricker and to Hume P. Wornall;

THENCE South 51°10'51" West, a distance of 910.04 feet to a point being a corner to Hume P. Wornall;

THENCE South 45°19'53" East, a distance of 859.23 feet to a point being a corner to Hume P. Wornall;

THENCE South 55°45'17" West, a distance of 631.85 feet to a point being a corner to Hume P. Wornall;

THENCE South 51°05'24" East, a distance of 151.65 feet to a point being a corner to Hume P. Wornall;

THENCE South 24°30'20" West, a distance of 603.71 feet to a point being a corner to Hume P. Wornall;

THENCE South 87°26'34" West, a distance of 100.35 feet to a point being a corner to Hume P. Wornall;

THENCE North 04°52'15" West, a distance of 53.41 feet to a point being a corner to Hume P. Wornall;

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THENCE North 42°08'57" West, a distance of 158.66 feet to a found iron rod with cap marked (Darnell 3553) being a corner to Hume P. Wornall;

THENCE South 56°21'54" West, a distance of 661.28 feet to a point being a corner to Hume P. Wornall;

THENCE North 44°04'16" West, a distance of 795.67 feet to a point being a corner to Jacksonville Cemetery;

THENCE South 47°38'15" West, a distance of 712.25 feet to a point being a corner to Jacksonville Cemetery;

THENCE North 49°42'35" West, a distance of 1425.10 feet to a point being a corner to Jacksonville Cemetery and to Mark E. Nason;

THENCE North 04°38'17" East, a distance of 161.04 feet to a point being a corner to Mark E. Nason;

THENCE South 63°01'21" West, a distance of 1178.73 feet to a point being a corner to Mark E. Nason and also being on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point,

THENCE along the said easterly right-of-way line the following bearings and distances:

1. North 00°35'22" West, a distance of 137.90 feet to a point;
2. North 01°21'08" West, a distance of 331.41 feet to a point;
3. North 03°20'40" West, a distance of 296.79 feet to a point;
4. North 04°33'56" West, a distance of 109.21 feet to a point;
5. North 02°53'05" West, a distance of 115.91 feet to a point
6. THENCE northwesterly and northerly a distance of 189.87 feet along the arc of a curve to the right, having a radius of 659.54 feet and being subtended by a chord which bears North 05°21'44" East, for a distance of 189.21 feet, to a point;
7. THENCE northerly a distance of 188.28 feet along the arc of a curve to the right having a radius of 2921.88 feet and being subtended by a chord which bears North 15°27'19" East, for a distance of 188.25 feet, to a point;
8. North 17°29'14" East, a distance of 246.12 feet to a point;
9. North 17°17'05" East, a distance of 265.08 feet to a point;
10. North 16°18'28" East, a distance of 286.28 feet to a point
11. THENCE northerly a distance of 474.98 feet along the arc of a curve to the left, having a radius of 2291.23 feet and being subtended by a chord which bears North 10°22'09" East, for a distance of 474.13 feet, to a point;
12. North 09°22'52" East, a distance of 317.31 feet to the POINT OF BEGINNING.

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Said tract or parcel of land containing 11,072,682 Square Feet or 254.194 Acres, more or less.

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EXHIBIT 11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

Sub 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] _____
[REDACTED] _____
[REDACTED] _____

SNA 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]

SONA 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]

EVA 4/5/21

[REDACTED]

[REDACTED]

[REDACTED]

SA 4/5/21

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EXHIBIT 12

Form of Memorandum

Recording requested by and
when recorded mail to:

c/o BayWa r.e. Development LLC
18575 Jamboree Rd. Ste 850
Irvine, CA 92612
Attn: SVP, General Counsel

(space above this line for recorder's use)

MEMORANDUM OF REAL ESTATE SWAP AGREEMENT

THIS MEMORANDUM OF REAL ESTATE SWAP AGREEMENT (this "Memorandum") is made, dated and effective as of _____, 2021 (the "Effective Date"), between SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001 ("Owner"), and BLUEBIRD SOLAR LLC, a Kentucky limited liability company ("Buyer"), in light of the following facts and circumstances:

RECITALS:

WHEREAS, Owner and Buyer have entered a Real Estate Swap Agreement dated as of the Effective Date with respect to property more specifically described herein (as heretofore or hereinafter amended, restated, or supplemented from time to time, the "Agreement"); and

WHEREAS, Owner and Buyer desire to set forth certain terms and conditions of the Agreement in a manner suitable for recording in the Harrison County and Bourdon County, Kentucky Clerks' offices, in order to provide record notice of the Agreement and Buyer's and Owner's rights in and to the lands subject to the Agreement, as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree and stipulate as follows:

1. Description of Property. The Owner's land subject to the Agreement is described on **Exhibit 1** attached hereto, and by this reference made a part hereof (the "Owner Property") and the Buyer's land subject to the Agreement is described on **Exhibit 2** attached hereto, and by this reference made a part hereof (the "Buyer Property"). The Owner Property and the Buyer Property shall be collectively referred to as the "Property".

2. Description of Exchange. Buyer has agreed to transfer, swap and exchange the Buyer Property for the Owner Property, and Owner has agreed to transfer, swap and exchange the Owner Property for the Buyer Property (the "Exchange") on the terms and conditions set forth in the Agreement. The entire

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Agreement is hereby incorporated into this Memorandum by reference. Notwithstanding anything to the contrary contained herein, the provisions of this Memorandum do not in any way alter, amend, supplement, change, or affect the terms, covenants, or conditions of the Agreement, all of which terms, covenants, and conditions shall remain in full force and effect. In the event of any conflict between the terms of this Memorandum and the Agreement, the terms of the Agreement shall prevail. Capitalized terms used herein but not otherwise defined shall have the meanings given such terms in the Agreement.

3. Closing of the Agreement. Unless extended or earlier terminated, as provided in the Agreement, the Closing of the exchange transaction contemplated by the Agreement shall occur within ninety (90) days following written notification to Owner of the satisfaction of all conditions precedent to Buyer's obligations under Section 4 of the Agreement with Buyer having an option to extend the Closing for an additional thirty (30) days, in accordance with the Agreement. As of the Effective Date, the parties estimate that the Closing Date will be December 31, 2021.

4. Upon Closing of the Agreement, the Parties will enter into a grant of easements for access and utility line installation by Buyer on real property retained by Owner. Should the Agreement terminate or expire without Closing, such grant shall not occur. However, the Parties shall negotiate such easements on terms mutually satisfactory to them within thirty (30) days of such expiration or termination.

5. Names and Addresses of Parties. The names and addresses of the parties to the Agreement are as follows:

<p>Owner:</p> <p>Sam W. Arnold, III, Trustee Under the Agnes Smith McDowell Charitable Trust dated June 22, 2001 103 Court Street Cynthiana, Kentucky 41031</p>	<p>Buyer:</p> <p>BLUEBIRD SOLAR LLC BayWa r.e. Solar Projects LLC 18575 Jamboree Rd, Suite 850 Irvine, CA 92612 Attn: SVP, General Counsel</p>
---	--

6. Repurchase Option. Pursuant to the Agreement, Buyer has granted to Owner the option to repurchase the Owner Property (the "Option"). The Option is exercisable by Owner only upon satisfaction of the following conditions precedent: (a) the satisfaction and release of all third-party interests in the Project, and (ii) Buyer's determination, in its sole discretion, that the Project's operational life has come to an end. The Option shall at all times remain subject and subordinate to the rights, title and interests of Buyer's lenders and investors in the Owner Property or the Project. Once the foregoing conditions precedent to exercise of the Option have been satisfied, Buyer shall notify Owner of the same in writing. Upon receipt of such written notice, Owner shall have a period of ninety (90) days to elect to repurchase the Owner Property. In the event Owner wishes to exercise the Owner Option, Owner shall deliver to Buyer a written notice of Owner's election to exercise such right by the expiration of the aforesaid ninety (90) day period. Upon exercise, Owner shall be bound to complete the purchase within thirty (30) days following notice of exercise, which purchase shall be completed on an "as-is, where-is" basis. The repurchase price shall be the fair market value of the Owner Property at the time of the exercise of the Option, which shall be determined by an appraisal of the Owner Property.

7. Successors and Assigns. The terms of this Memorandum and the Agreement are covenants running with the land and inure to the benefit of, and are binding upon, the parties and their respective successors and assigns, including all subsequent owners of all or any portion of the Property. References to Owner and Buyer include their respective successors and assigns. References to the Agreement includes any amendments thereto.

8. Miscellaneous. This Memorandum is executed for the purpose of recording in each of the

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Bourbon County, Kentucky Clerk's Office and the Harrison County, Kentucky Clerk's Office, in order to provide public record notice of the Agreement and the parties rights in and to the Property subject to the Agreement. All persons are hereby put on notice of and shall have a duty to inquire regarding the Agreement and all of the provisions thereof and the rights, title, interests, and claims of Buyer and Owner, respectively in and to the Property. Any right, estate, claim, or interest in the Property first attaching to the Property and recorded from and after the Effective Date shall be subordinate to the terms of the Agreement. If either party acquires fee simple title to any portion of the Property, that party shall have the right, at its option, to terminate any such subordinate right, estate, claim, or interest, at no cost or liability to the party, or to accept title subject thereto. This instrument may for convenience be executed in any number of original counterparts, each of which shall be an original and all of which taken together shall constitute one instrument.

[The remainder of this page is intentionally left blank.]

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IN WITNESS WHEREOF, Owner and Buyer, acting through their duly authorized representatives, have made and entered into this Memorandum as of the Effective Date.

OWNER:



**SAM W. ARNOLD, III, AS TRUSTEE
UNDER THE AGNES SMITH MCDOWELL
CHARITABLE TRUST DATED JUNE 22, 2001,
AS AMENDED**

STATE OF KENTUCKY)

COUNTY OF _____)

The foregoing instrument was sworn and acknowledged before me this _____ day of _____, 2021, by SAM W. ARNOLD, III, AS TRUSTEE UNDER THE AGNES SMITH MCDOWELL CHARITABLE TRUST DATED JUNE 22, 2001, AS AMENDED.

My commission expires _____.

NOTARY PUBLIC, STATE AT LARGE
NOTARY ID# _____

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BUYER:

BLUEBIRD SOLAR LLC,
a Kentucky limited liability company

By _____
Title _____

ACKNOWLEDGEMENT OF BUYER

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____
personally _____ appeared

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

This instrument prepared by:

WA 9/5/21

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EXHIBIT 1 TO MEMORANDUM OF SWAP AGREEMENT

LEGAL DESCRIPTION OF THE OWNER PROPERTY

Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478, and also being the POINT OF BEGINNING;

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) the following bearings and distances:

1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;
7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 109.10 feet to a point;
14. South 16°14'53" East, a distance of 361.27 feet to a point
15. THENCE southerly a distance of 922.45 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a chord which bears South 02°42'27" East, for a distance of 913.89 feet, to a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752);

THENCE leaving the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed North 65°11'21" West, a distance of 2410.44 feet to

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a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752)) and Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691);

THENCE North 06°53'46" West, a distance of 272.49 feet to an iron pin set, a 1/2-inch rebar, said point being a corner to Troy L. & Mary Ware Bradford (D.B. 332, Pg. 691) and William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE South 83°59'23" East, a distance of 384.19 feet to an iron pin set, a 1/2-inch rebar, said point being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829);

THENCE North 04°34'04" East, a distance of 1950.90 feet to an iron pin set, a 1/2-inch rebar, said point being a corner to William R. Hilliard, Jr. (D.B. 302, Pg. 829 and Joe M. McDaniel (D.B. 140, Pg. 250);

THENCE North 05°41'34" East, a distance of 976.72 feet to an iron pin set, a 1/2-inch rebar, said point being a corner to Joe M. McDaniel (D.B. 140, Pg. 250) and Joe Patterson, (D.B. 180, Pg. 478);

THENCE South 85°00'44" East, a distance of 1516.40 feet to an iron pin set, a 1/2-inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353), said iron pin set being the POINT OF BEGINNING.

Said tract or parcel of land containing 6,053,765 Square Feet or 138.975 Acres, more or less.

EXCLUDING:

Being a portion of Parcel Identification No. 066-0000-007-00-000

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the west side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron pin set, a one-half inch rebar, on the westerly right-of-way line of Russell Cave Road (Ky 353) said iron pin being a corner to Joe Patterson (D.B. 180, Pg.478, and also being the POINT OF BEGINNING;

THENCE along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) the following bearings and distances:

1. South 04°02'15" West, a distance of 244.45 feet to a point;
2. North 85°57'00" West, a distance of 10.00 feet to a point;
3. South 04°03'00" West, a distance of 100.00 feet to a point;
4. South 85°57'00" East, a distance of 10.00 feet to a point;
5. South 04°03'00" West, a distance of 450.00 feet to a point;
6. North 85°57'00" West, a distance of 10.00 feet to a point;

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7. South 04°03'00" West, a distance of 600.00 feet to a point;
8. South 85°57'00" East, a distance of 10.00 feet to a point;
9. South 04°03'00" West, a distance of 431.00 feet to a point;
10. South 03°57'56" West, a distance of 95.07 feet to a point
11. THENCE southerly a distance of 359.86 feet along the arc of a curve to the left, having a radius of 3132.80 feet and being subtended by a chord which bears South 00°40'30" West, for a distance of 359.66 feet, to a point;
12. THENCE southerly a distance of 388.25 feet along the arc of a curve to the left, having a radius of 2527.11 feet and being subtended by a chord which bears South 07°01'01" East, for a distance of 387.87 feet, to a point;
13. South 12°33'58" East, a distance of 81.48 feet to an iron pin set, a 1/2-inch rebar on the westerly right-of-way line of Russell Cave Road, said point being the POINT OF BEGINNING;

THENCE continuing along the said westerly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) South 12°33'58" East, a distance of 27.63 feet to a point;

THENCE continuing along the said westerly right-of-way line South 16°14'53" East, a distance of 361.27 feet to a point

THENCE continuing along the said westerly right-of-way line southerly a distance of 922.45 feet along the arc of a curve to the right, having a radius of 1951.63 feet and being subtended by a chord which bears South 02°42'27" East, for a distance of 913.89 feet, to a 1/2-inch rebar with cap, said iron pin being a corner to Sam W. Arnold (D.B. 293, Pg. 752);

THENCE leaving the said westerly right-of-way line of Russell Cave Road proceed along the northerly boundary line of Sam W. Arnold North 65°11'21" West, a distance of 113.04 feet to a point;

THENCE leaving said boundary line proceed North 21°47'27" West, a distance of 303.21 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 41°01'56" West, a distance of 179.84 feet to an iron pin set, a 1/2-inch rebar;

THENCE South 80°16'55" West, a distance of 37.16 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 68°14'33" West, a distance of 78.82 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 54°02'18" West, a distance of 111.62 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 36°50'22" West, a distance of 89.92 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 28°23'38" West, a distance of 130.63 feet to an iron pin set, a 1/2-inch rebar;

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THENCE North 24°35'20" West, a distance of 98.17 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 20°06'11" West, a distance of 303.56 feet to an iron pin set, a 1/2-inch rebar;

THENCE North 75°01'35" East, a distance of 667.00 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 567,245 Square Feet or 13.022 Acres, more or less.

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EXHIBIT 2 TO MEMORANDUM OF SWAP AGREEMENT

LEGAL DESCRIPTION OF THE BUYER PROPERTY

Bourbon County, Kentucky
(Deed Book 207, Page 441)

Being Parcel Identification No. 008-00-00-002.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at an iron rod found with cap located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 37°08'49" East, a distance of 577.95 feet to a point being a corner to Agnes McDowell;

THENCE South 36°10'24" East, a distance of 597.99 feet to a point being a corner to Agnes McDowell;

THENCE North 57°33'53" East, a distance of 494.37 feet to a point being a corner to Agnes McDowell and Agnes S. McDowell, (D.B. 109, Page 186);

THENCE South 51°44'49" East, a distance of 424.22 feet to a point being a corner to Agnes S. McDowell;

THENCE South 46°14'59" East, a distance of 592.17 feet to a point being a corner to Agnes S. McDowell;

THENCE South 59°42'24" East, a distance of 604.06 feet to a point being a corner to Agnes S. McDowell (D.B. 109, Page 186), and Carol M. Ricker, (D.B. 235, PG 175), and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE North 76°51'36" West, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 47°09'03" West, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 40°55'17" East, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 52°42'40" West, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 54°48'35" West, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE North 34°29'36" East, a distance of 263.71 feet to an iron pin found, a one-half inch rebar being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc.;

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THENCE North 55°24'48" West, a distance of 357.55 feet to a point being a corner to Birtle L. & Patricia H. Spencer and East Kentucky Power cooperative, Inc., and Hinkle Holding Company, LLC;

THENCE North 21°40'18" East, a distance of 584.89 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°13'41" West, a distance of 346.15 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 22°04'20" East, a distance of 276.53 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 60°20'05" West, a distance of 238.71 feet to a point being a corner to Hinkle Holding Company, LLC;

THENCE North 59°23'28" West, a distance of 144.13 feet to a point being a corner to Hinkle Holding Company, LLC and also on the easterly right-of-way line of Russell Cave Road (Ky 353) being 100-feet wide at this point;

THENCE along the said easterly right-of-way line of Russell Cave Road North 30°25'32" East, a distance of 389.60 feet to a point;

THENCE continuing along the said easterly right-of-way line North 30°51'12" East, a distance of 348.66 feet to a point;

THENCE along the said easterly right-of-way line North 30°24'04" East, a distance of 283.30 feet to a point;

THENCE along the said easterly right-of-way line North 30°29'03" East, a distance of 147.46 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 4,732,147 Square Feet or 108.635 Acres, more or less.

AND

Being Parcel Identification No. 008-00-00-001.00

ALL That certain tract or parcel of land, lying and being located in Bourbon County, Kentucky and situated on the east side of Russell Cave Road (Ky 353); and being more particularly described as follows:

Commencing at a point located on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point, said point having State Plane coordinates of Northing: 288821.4170, Easting: 1607949.1443 and being a corner to Agnes McDowell, Parcel Identification No. 007-00-00-003.00 and also being the POINT OF BEGINNING;

THENCE leaving the said easterly right-of-way line of Russell Cave Road (variable width right-of-way, 100-feet wide at this point) proceed South 55°10'38" East, a distance of 607.37 feet to an

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iron pin found and being a corner to Hinkle Holding Company, LLC, and to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611);

THENCE South 55°06'09" East, a distance of 300.63 feet to a point being a corner to East Kentucky Power cooperative, Inc. (D.B. 232, PG 611) and Birtle L. & Patricia H. Spencer (D.B. 207, PG 441);

THENCE South 54°48'35" East, a distance of 1656.22 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 52°42'40" East, a distance of 967.17 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 40°55'17" West, a distance of 1252.18 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE North 47°09'03" East, a distance of 759.00 feet to a point being a corner to Birtle L. & Patricia H. Spencer;

THENCE South 76°51'36" East, a distance of 697.92 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker (D.B. 235, PG 1 75)

THENCE South 27°01'19" East, a distance of 1487.11 feet to a point being a corner to Birtle L. & Patricia H. Spencer and Carol M. Ricker;

THENCE South 54°31'01" East, a distance of 444.62 feet to a point Birtle L. & Patricia H. Spencer and Carol M. Ricker and to Hume P. Wornall;

THENCE South 51°10'51" West, a distance of 910.04 feet to a point being a corner to Hume P. Wornall;

THENCE South 45°19'53" East, a distance of 859.23 feet to a point being a corner to Hume P. Wornall;

THENCE South 55°45'17" West, a distance of 631.85 feet to a point being a corner to Hume P. Wornall;

THENCE South 51°05'24" East, a distance of 151.65 feet to a point being a corner to Hume P. Wornall;

THENCE South 24°30'20" West, a distance of 603.71 feet to a point being a corner to Hume P. Wornall;

THENCE South 87°26'34" West, a distance of 100.35 feet to a point being a corner to Hume P. Wornall;

THENCE North 04°52'15" West, a distance of 53.41 feet to a point being a corner to Hume P. Wornall;

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THENCE North 42°08'57" West, a distance of 158.66 feet to a found iron rod with cap marked (Darnell 3553) being a corner to Hume P. Wornall;

THENCE South 56°21'54" West, a distance of 661.28 feet to a point being a corner to Hume P. Wornall;

THENCE North 44°04'16" West, a distance of 795.67 feet to a point being a corner to Jacksonville Cemetery;

THENCE South 47°38'15" West, a distance of 712.25 feet to a point being a corner to Jacksonville Cemetery;

THENCE North 49°42'35" West, a distance of 1425.10 feet to a point being a corner to Jacksonville Cemetery and to Mark E. Nason;

THENCE North 04°38'17" East, a distance of 161.04 feet to a point being a corner to Mark E. Nason;

THENCE South 63°01'21" West, a distance of 1178.73 feet to a point being a corner to Mark E. Nason and also being on the easterly right-of-way line of Russell Cave Road (Ky 353), said right-of-way being 100-feet wide at this point,

THENCE along the said easterly right-of-way line the following bearings and distances:

14. North 00°35'22" West, a distance of 137.90 feet to a point;
15. North 01°21'08" West, a distance of 331.41 feet to a point;
16. North 03°20'40" West, a distance of 296.79 feet to a point;
17. North 04°33'56" West, a distance of 109.21 feet to a point;
18. North 02°53'05" West, a distance of 115.91 feet to a point
19. THENCE northwesterly and northerly a distance of 189.87 feet along the arc of a curve to the right, having a radius of 659.54 feet and being subtended by a chord which bears North 05°21'44" East, for a distance of 189.21 feet, to a point;
20. THENCE northerly a distance of 188.28 feet along the arc of a curve to the right having a radius of 2921.88 feet and being subtended by a chord which bears North 15°27'19" East, for a distance of 188.25 feet, to a point;
21. North 17°29'14" East, a distance of 246.12 feet to a point;
22. North 17°17'05" East, a distance of 265.08 feet to a point;
23. North 16°18'28" East, a distance of 286.28 feet to a point
24. THENCE northerly a distance of 474.98 feet along the arc of a curve to the left, having a radius of 2291.23 feet and being subtended by a chord which bears North 10°22'09" East, for a distance of 474.13 feet, to a point;
25. North 09°22'52" East, a distance of 317.31 feet to the POINT OF BEGINNING.

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Said tract or parcel of land containing 11,072,682 Square Feet or 254.194 Acres, more or less.

SNA 4/5/21

FIRST AMENDMENT TO SOLAR GROUND LEASE

THIS FIRST AMENDMENT TO SOLAR GROUND LEASE (this "**Amendment**") is made as of the 25th day of February, 2021, by and between Dana H. Reed and Trudie Reed (collectively "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

BACKGROUND:

A. Tenant and Landlord (as successor-in-interest by that certain unrecorded Assignment and Assumption Agreement dated January 14, 2020, by and between Blue Jay Solar LLC, a Kentucky limited liability company, as Assignor, and Bluebird Solar LLC, a Kentucky limited liability company, as Assignee) are parties to that certain Solar Ground Lease dated February 6, 2018, (the "**Lease**"). Pursuant to the Lease, Landlord grants to Tenant a solar lease and easement over the land described in Exhibit A attached hereto and incorporated herein by reference (the "Land").

B. The Parties desire to amend the Lease to make certain modifications thereto as are set forth in this Amendment.

NOW, THEREFORE, The Parties, in consideration of the mutual promises and covenants contained in this Amendment and in the Lease, and intending to be legally bound by the terms of this Amendment, agree to amend the Lease as follows:

AGREEMENT:

1. Scope of Amendment; Defined Terms; Incorporation of Recitals. Except as expressly provided in this Amendment, the Lease shall remain in full force and effect in all respects and the term "**Lease**" shall mean the Lease as modified by this Amendment. Capitalized terms used but not otherwise defined in this Amendment have the respective meanings given to them in the Lease. The preamble and recitals set forth above, the truth and accuracy of which the parties hereby acknowledge, are hereby incorporated into this Amendment by this reference in their entirety.

2. Land. The parties hereby agree to amend the Land to be approximately 75.49 acres of that certain property with Parcel ID No. of 080-0000-002-01-000, containing approximately 116 acres.

3. Premises. Exhibit B of the Lease is hereby deleted in its entirety and replaced with Exhibit B attached hereto and incorporated herein by reference.

4. Entire Agreement; No Amendment. This Amendment constitutes the entire agreement and understanding between the parties with respect to the subject of this Amendment and shall supersede all prior written and oral agreements concerning this subject matter. This Amendment may not be amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of the Parties. Each party

acknowledges that it has read this Amendment, fully understands all of this Amendment's terms and conditions, and executes this Amendment freely, voluntarily and with full knowledge of its significance. Each party to this Amendment has had the opportunity to receive the advice of counsel prior to the execution hereof.

5. Conflict and Ratification. In the event that any conflict or inconsistency between the terms and provisions of the Lease and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. Except as provided herein, the terms and conditions of the Lease shall remain unchanged and are hereby ratified and reaffirmed as of the date hereof and shall remain in full force and effect.

6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns under the Lease.

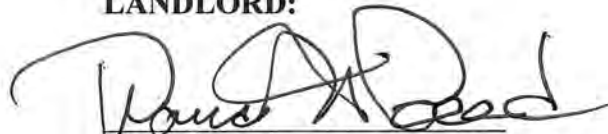
7. Counterparts. This Amendment may be executed in counterparts and in facsimile or by electronic copy, and such counterparts together shall constitute but one original of the Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

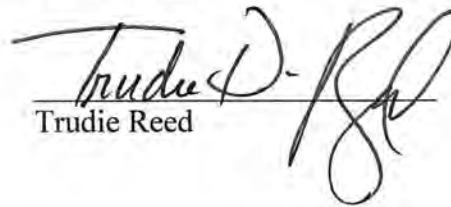
[signatures appear on following page]

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed and delivered this Amendment as of the date first set out above.

LANDLORD:


Dana H. Reed


Trudie Reed

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed and delivered this Amendment as of the date first set out above.

TENANT:

Bluebird Solar LLC, a Kentucky limited liability company

By:  _____

Name: William Gulley

Title: Authorized Signatory

EXHIBIT A

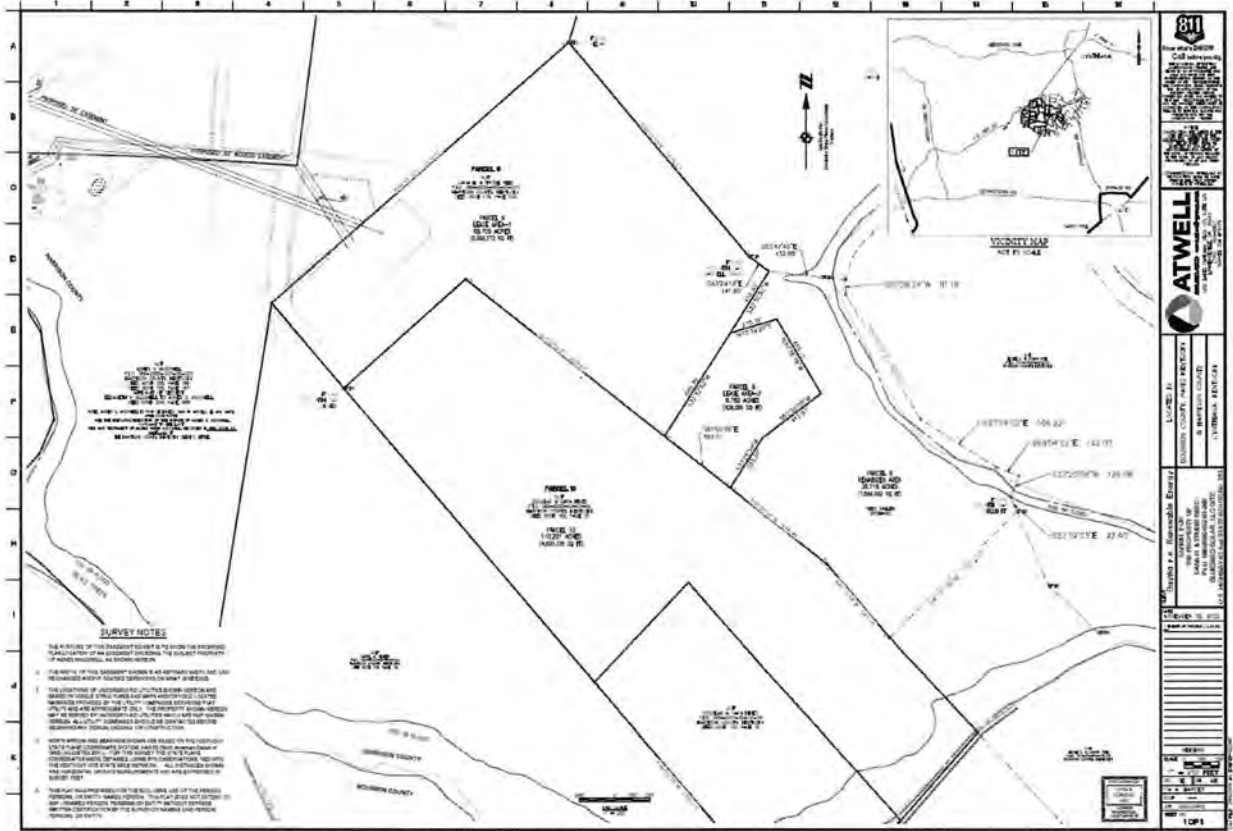
LAND



Parcel ID: 080-0000-002-01-000
116 Acres - 248 Lail Lane

Exhibit B

Premises



Parcel 9

Lease Area-1: 65.705 acres, more or less

Lease Area-2: 9.782 acres, more or less

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 6th day of February, 2018 (the "Effective Date"), by and between Dana H. Reed, and Trudie Reed (collectively, "Landlord") and Blue Jay Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord within ten (10) days of full execution (the "Phase I Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion approximately 65 acres of that certain property with Parcel ID No. of 080-0000-002-01-000, containing approximately 116 acres, located at 248 Lail Lane, Paris, KY 40361 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the portion of the Land delineated in the Survey and shown on Exhibit B attached hereto and by this reference made a part hereof, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open. The delineation of the Premises on the Survey shall be deemed inserted as Exhibit B to this Lease, automatically replacing any previous Exhibit B.

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As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than ten (10) contiguous acres, and (ii) Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) twenty five (25) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] [REDACTED] [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the

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applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "**Notice of Proceeding**") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "**Farm Rent Offset**"), which shall be payable as follows: [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal

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of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between Landlord and Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other

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property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

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11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises. Tenant will also be responsible for repair of damages to the entry route shown on Exhibit B and the bridge on Lail Lane caused by the tenant's activities.

12. Default. [REDACTED]

[REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

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15. Binding Effect: Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications.

(a) Tenant shall defend, indemnify, protect and hold harmless Landlord, and its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Landlord (collectively, including Landlord, the "**Landlord Parties**") from and against all claims, demands, liabilities, losses, damages, costs (including, without limitation, reasonable attorneys' fees) and expenses (collectively, "**Claims**") suffered or incurred by any of the Landlord Parties as a result of or arising out of: (a) any acts, omissions or negligence of Tenant, its partners, members, affiliates, agents, directors, shareholders, employees, representatives, successors, assigns, contractors or anyone claiming under Tenant (collectively, including Tenant, the "**Tenant Parties**") in connection with Tenant Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Landlord Party, or (b) a breach of this Lease by Tenant that remains uncured after any applicable notice and cure period. Notwithstanding the foregoing, the Landlord Parties hereby waive any Claims against the Tenant Parties for damage or injury suffered by the Landlord Parties arising as a result of any audible or electromagnetic noise, vibration, electrical interference and radio frequency interference attributable to the Tenant Parties' operations on the Premises or any other property, provided that nothing herein shall be deemed to release Tenant from its obligation to defend, indemnify, protect and hold harmless the Landlord Parties from third party claims under the first sentence of this Section 17(a). The Tenant Parties shall not be liable for losses of rent, business opportunities, profits or any other consequential damages that may result from the conduct of Tenant Parties' uses of or operations on the Premises.

(b) Landlord shall defend, indemnify, protect and hold harmless the Tenant Parties from and against any and all Claims suffered or incurred by any of the Tenant Parties as a result of or arising out of: (a) any acts, omissions or negligence of any of the Landlord Parties in connection with Landlord Parties' uses of or operations on the Premises, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, (b) the condition of the Premises that Landlord has knowledge of, or after reasonable inquiry, should have knowledge of, except to the extent any such Claim is caused by the negligence or willful misconduct of a Tenant Party, or (c) a breach of this Lease by Landlord that remains uncured after any applicable notice and cure period.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

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To Landlord: Dana and Trudie Reed
248 Lail Lane
Paris, KY 40361

To Tenant: Blue Jay Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

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(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any

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governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Ownership of Solar Energy and Attributes: Tax Credits and Incentives. Landlord hereby acknowledges and agrees that Landlord shall have no ownership or other interest in (and Tenant is the sole and exclusive owner of) the solar farm and all related generation, transmission and interconnection facilities (the "**Energy Facilities**") installed on the Premises or any environmental attributes produced therefrom, including, without limitation, any and all federal, state and/or local benefits and credits (including tax credits, investment credits, carbon credits, solar energy credits), rebates, incentives, benefits, emissions reductions, entitlements, reporting rights, deductions, depreciation, offsets and allowances of any kind, howsoever entitled, attributable to the solar farm and its related facilities or the electric energy, generation capacity or other generator-based products produced therefrom, whether in effect as of the date of this Lease or as may come into effect in the future.

27. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

(i) An exclusive easement for electrical interconnection purposes;

(ii) A non-exclusive easement and right-of-way along the existing route shown in Exhibit B for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;

(iii) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by

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Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

28. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

29. Landlord's Access. Landlord hereby reserves for itself the right to access adjoining property owned by Landlord that would not have access to a public roadway otherwise over a twenty foot (20') wide path over the Premises in a location to be determined by Tenant (the "**Landlord Access**") subject to the terms of this Section 29. Tenant shall also have the right to use the Landlord Access for the benefit of the Premises. Landlord shall only use the Landlord Access for the benefit of Landlord's adjoining property as currently being used and such access shall only commence after the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Notwithstanding anything to the contrary, Tenant may consent in writing, such consent not to be unreasonably withheld, to Landlord's use of the Landlord Access for specific tasks of limited duration prior to the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Landlord shall not use the Landlord Access in any manner that interferes with Tenant's operations pursuant to this Lease or enjoyment of Tenant's rights granted under this Lease. Landlord shall promptly restore any damage caused by Landlord's use of the Landlord Access. Tenant shall install a gate on such Landlord Access. After Landlord's right to use the Landlord Access commences, Tenant shall provide Landlord a copy of any key to the gate, and Landlord may use the gate but shall keep such

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gate closed and locked at such times as Landlord is not using the Landlord Access. Additionally, Landlord shall be solely responsible, at Landlord's sole cost and expense, for the maintenance, repair, replacement, and improvement of the Landlord Access. Landlord shall perform all such maintenance, repair, replacement, and improvement in a good and workmanlike manner that minimizes interference with Tenant's operations pursuant to the Lease or Tenant's rights granted pursuant to the Lease. Tenant, at Tenant's sole cost and expense, may relocate the Landlord Access as desirable for the use of the Premises so long as the relocation reasonably allows Landlord continued access to its adjoining property.

30. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

31. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

32. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

33. Counterparts and Email/PDF. This Lease may be executed in counterpart or by emailing .pdf or other compressed digital files, or any combination of the foregoing. All counterparts together shall constitute one and the same Lease.

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34. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

35. Leasehold Financing.

(a) Tenant, any successor or assignee of Tenant, or any holder of a sublease or license (each hereinafter sometimes referred to as an "**Obligor**") may at any time mortgage, pledge, or encumber to any entity (herein, a "**Lender**") all or any portion of the Obligor's rights and interests under this Lease or such sublease or license, in each case without the consent of Landlord. For purposes of this Lease, each entity which now or hereafter is the recipient or beneficiary of any such mortgage, pledge, or encumbrance and whose lien or encumbrance is now or hereafter recorded in the official records of the County in which the Premises is located, shall be referred to in this Lease as a "**Lender**".

(b) Tenant and Landlord expressly agree between themselves and for the benefit of any Lenders, that if an Obligor mortgages, pledges, or encumbers any of its rights and interests as provided in subsection (a) above, then notwithstanding any other provision of this Lease to the contrary:

(i) Landlord and Tenant will not terminate, suspend, amend or modify, or take any action causing, consenting to, acquiescing in, or accepting the termination, suspension, amendment or modification of this Lease, if such amendment or modification would reduce the rights or remedies of any Lender hereunder or impair or reduce the security for any lien held by such Lender, without such Lender's consent.

(ii) Each Lender shall have the right, at its discretion, to take, or cause to be taken, any action required to be performed under this Lease by the Obligor that is party to such Lender's mortgage, pledge or encumbrance, and any such action performed by such Lender shall be as effective to prevent or cure a default under this Lease and/or a forfeiture of any of such Obligor's rights under this Lease as if done by such Obligor itself.

(iii) The right of a Lender to receive notices and to cure Obligor's defaults pursuant to the provisions of this subsection (b) shall be available only to those Lenders which shall have notified Landlord in writing of their name and address, regardless of whether the specific provision in question expressly so states. No default which requires the giving of notice to Obligor shall be effective unless a like notice is given to all Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. If Landlord shall become entitled to terminate this Lease due to an uncured default by Obligor, Landlord will not terminate this Lease unless it has first given written notice of such uncured default and of its intent to terminate this Lease to each Lender which has previously notified Landlord in writing of their name and address and has expressly requested such notice, and has given each Lender at least thirty (30) days after the expiration of the cure period which this Lease provides to Obligor for curing such default, to cure the default to prevent such termination of this Lease. Furthermore, if within such thirty (30) day period a Lender notifies Landlord that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Lease

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in order to cure the default, Landlord shall not terminate this Lease and shall permit such Lender a sufficient period of time as may be necessary for such Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Lease and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor. In the event a Lender shall elect to exercise its rights hereunder, such Lender shall have no personal liability to Landlord and the sole recourse of the Landlord in seeking enforcement of its obligations under this Lease or any new lease entered into pursuant to clause (iv) below shall be to such Lender's interest in this Lease and the Premises. Upon the sale or other transfer by any Lender of its interest in the Lease or Premises, such Lender shall have no further duties or obligations hereunder. If there is a Subordination, Nondisturbance and Attornment Agreement ("SNDA") entered into between Landlord and any Lender, in the case of any conflict between this Section 36 and such SNDA, the terms of the SNDA shall govern.

(iv) In case of the termination or rejection of this Lease as a result of any default hereunder or the bankruptcy, insolvency or appointment of a receiver in bankruptcy, Landlord shall provide prompt notice thereof to the Lenders which have previously notified Landlord in writing of their name and address, and have expressly requested such notice. Upon written request of the Lender that is the beneficiary of the first priority security interest in the Tenant's interest under this Lease, made within forty (40) days after notice to such Lender of such rejection or termination, Landlord shall enter into a new lease agreement with such Lender, or its designee or assignee, within twenty (20) days after the receipt of such request. Such new lease agreement shall be effective as of the date of the termination or rejection of this Lease, upon the same terms, covenants, conditions and agreements as contained in this Lease for the remaining term of the original Lease before giving effect to such termination or rejection. Landlord shall have no rights to terminate such new lease based upon defaults occurring prior to the execution of the new lease. Landlord hereby agrees with and for the benefit of the Lenders that the provisions of this subsection shall survive termination, rejection or disaffirmation of the Lease, whether by default or as a result of the bankruptcy, insolvency or appointment of a receiver in bankruptcy and shall continue in full force and effect thereafter to the same extent as if this subsection were a separate and independent instrument. It is the intent of the parties hereto that any such new lease shall have the same priority as this Lease.

(c) There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease or the leasehold estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons (including the Lenders) having an interest in the Lease or in the estate of Landlord and Tenant shall join in a written instrument effecting such merger and shall duly record the same.

(d) Landlord shall, at Tenant's or a Lender's request, but at no cost to Landlord, provide to Tenant and such Lender (i) confirmation that such Lender is a "**Lender**" for purposes of this Lease, (ii) a consent and estoppels acknowledging the Lender's mortgage or other lien or encumbrance, confirming the continuing effectiveness of this Lease, identifying any modifications hereto and any breaches or defaults hereunder, and containing such other information and agreements as Tenant or such Lender may reasonably request, and (iii) such other certificates or affidavits as Tenant, such Lender or any title company selected by either Tenant or such Lender may reasonably request. Landlord shall duly execute and return same to Tenant and/or Lender within ten (10) days of Tenant's or Lender's request therefor. Should Landlord fail to timely execute and deliver the consent and estoppel, then Tenant and/or Lender may rely on the contents thereof and the consent and estoppel shall be conclusively binding upon Landlord.

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36. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: *Dana H Reed*
Name: DANA H REED
Title: OWNER

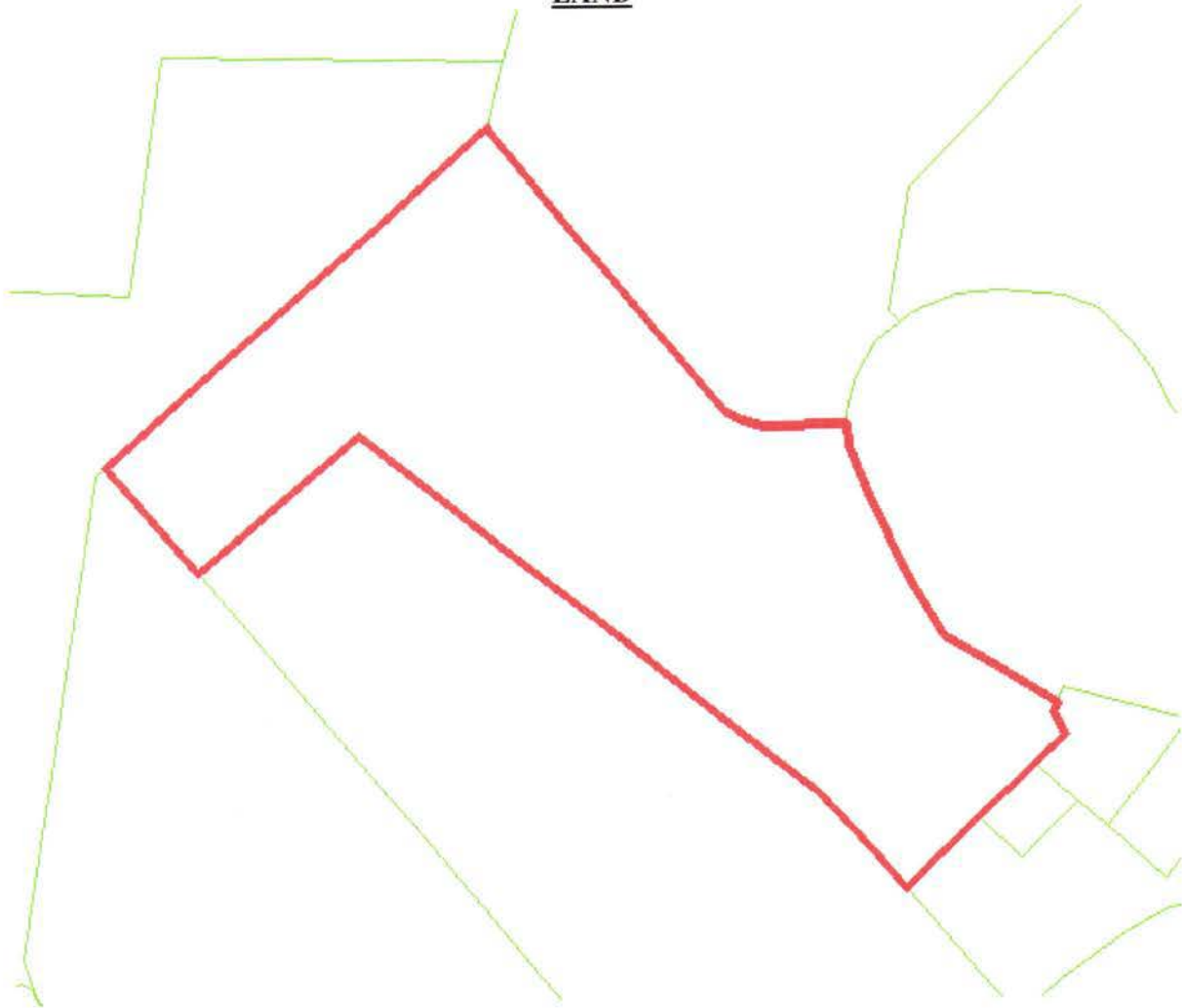
By: *Trudie D. Reed*
Name: TRUDIE D. REED
Title: OWNER

TENANT:

By: _____
Name: _____
Title: _____

EXHIBIT A

LAND



Parcel ID: 080-0000-002-01-000
116 Acres – 248 Lail Lane

EXHIBIT B
Premises



Parcel ID: 080-0000-002-01-000
Premises – 65 Acres approx.

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 1ST day of May, 2017 (the "Effective Date"), by and between Silas Baptist Church (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than 30 days from the Effective Date above and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion up to approximately 49 acres of that certain property with Parcel ID Nos. of 066-0000-003-02-000, containing approximately 59 acres, located at 1189 Allen Pike, Cynthiana, Ky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED] Tenant shall have the right, in Tenant's sole discretion, to terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written

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notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than five (5) contiguous acres, and (ii) Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) Forty (40) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre of open land located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant

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must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "Notice of Proceeding") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Farm Rent Offset"), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. Landlord may identify to the Tenant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items

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remaining at that date will come under the control and responsibility of the Tenant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared equally between Landlord and Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to

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the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

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11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may

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assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: Silas Baptist Church
c/o Curtis Coots
274 Silas Road
Cynthiana, Ky. 41031

To Tenant: Bluebird Solar LLC
c/o BayWare Development LLC
17901 Von Kaman Ave.
Suite #1050
Irvine, CA 92614
Attn: Corporate Counsel

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

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20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with

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respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

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- (i) An exclusive easement for electrical interconnection purposes;
 - (ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;
 - (iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;
 - (iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and
 - (v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).
- (b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.
- (c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).
- (d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents,

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and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. **Tenant's Access.** Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

28. Section Deleted

29. **Confidentiality.** All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. **Amendment; Entire Agreement; Interpretation.** This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. **Execution by Landlord.** Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

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32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: [Signature]
Name: LOUIS DUTTON
Title: CHAIRMAN OF THE DEACONS

By: [Signature]
Name: Charles L. Cook
Title: PASTOR

TENANT:

Blue Bird Solar LLC

By: [Signature]
Name: Bill Gwifey
Title: Authorized Representative

Exhibit A



Tax Map 066-0000-003-02-000

FIRST AMENDMENT TO OPTION AGREEMENT

This FIRST AMENDMENT TO OPTION AGREEMENT (this "Amendment") is made and entered into as of April 13, 2021, by and between PATRICIA H. SPENCER ("Seller") and BLUEBIRD SOLAR LLC, a Kentucky limited liability company ("Buyer").

RECITALS

- A. Seller and Buyer entered into that certain Option Agreement dated October 3, 2019 (the "Option Agreement"); and
- B. Seller and Buyer now desire to amend the Option Agreement on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in the Option Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Recitals; Definitions. The recitals set forth above, the Option Agreement referred to therein and any exhibits or schedules attached hereto are incorporated herein by reference as if set forth in full in the body of this Amendment. Capitalized terms used herein but not otherwise defined shall have the meanings given such terms in the Option Agreement.

2. Title. Paragraph 8 of the Option Agreement is hereby amended and restated in its entirety as follows:

"8. Title. Seller covenants to convey to Buyer at Closing good and marketable fee simple title in and to the Property. For the purposes of this Agreement, "good and marketable fee simple title" shall mean fee simple ownership which is (a) insurable by a title insurance company reasonably acceptable to Buyer, at then current standard rates under the standard form of ALTA owner's policy of title insurance (ALTA Form 2006), with the standard or printed exceptions therein deleted and without exception other than for title exceptions approved by Buyer in writing, in its sole and absolute discretion and (b) free from any (i) mortgage, deed to secure debt, deed of trust, security agreement, judgment, lien or claim of lien, or any other title exception or defect that is monetary in nature, Seller hereby agreeing to pay and satisfy of record any such title defects or exceptions prior to or at Closing at Seller's expense and (ii) excepting the easements set forth as Exceptions 9 – 12 on Schedule B, Part II of that certain Stewart Title Guaranty Company ALTA Commitment for Title Insurance dated September 26, 2019, lease, rental agreement, or other right of occupancy, use or access of any kind, whether written or oral (it being acknowledged and understood that any lease, rental agreement or right of occupancy, use or access in existence as of the Effective Date or arising thereafter shall be fully and completely terminated by Seller prior to Closing)."

3. Payments. Seller hereby acknowledges receipt of all Option Money properly due and payable pursuant to the Option Agreement as of the date hereof.

4. Miscellaneous. Except as specifically modified by this Amendment, all of the remaining terms and conditions set forth in the Option Agreement shall remain unchanged and in full force and effect.

This Amendment may be executed by facsimile or PDF and in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same original.

[Signature Page Follows Immediately]

4. Miscellaneous. Except as specifically modified by this Amendment, all of the remaining terms and conditions set forth in the Option Agreement shall remain unchanged and in full force and effect. This Amendment may be executed by facsimile or PDF and in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same original.

[Signature Page Follows Immediately]

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IN WITNESS WHEREOF, Seller and Buyer, acting through their duly authorized representatives, have made and entered into this Amendment as of the date first listed above.

SELLER:
By:
Name: Patricia H. Spencer
<i>Patricia H. Spencer</i>
BUYER:
BLUEBIRD SOLAR LLC, a Kentucky limited liability company
By:
Name:
Title:

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IN WITNESS WHEREOF, Seller and Buyer, acting through their duly authorized representatives,
have made and entered into this Amendment as of the date first listed above.

SELLER:

By: _____
Name: Patricia H. Spencer

BUYER:

BLUEBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____
Name: William Gullet
Title: Authorized Signatory

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SECOND AMENDMENT TO OPTION AGREEMENT

This SECOND AMENDMENT TO OPTION AGREEMENT (this "Second Amendment") is made and entered into as of December 23, 2021, by and between PATRICIA H. SPENCER ("Seller") and BLUEBIRD SOLAR LLC, a Kentucky limited liability company ("Buyer").

RECITALS

A. Seller and Buyer entered into that certain Option Agreement dated October 3, 2019, as amended by that certain First Amendment to Option Agreement dated April 13, 2021, and memorialized by that certain Memorandum of Option Agreement dated April 13, 2021, recorded August 6, 2021 in Book 318, Page 603 (collectively, the "Option Agreement"); and

B. Seller and Buyer now desire to amend the Option Agreement on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in the Option Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Recitals; Definitions. The recitals set forth above, the Option Agreement referred to therein and any exhibits or schedules attached hereto are incorporated herein by reference as if set forth in full in the body of this Second Amendment. Capitalized terms used herein but not otherwise defined shall have the meanings given such terms in the Option Agreement.

2. Term of Option. Paragraph 2 of the Option Agreement is hereby amended and restated in its entirety as follows:

"2. Term of Option. The Option shall remain in full force and effect from the Effective Date until 11:59 P.M. on [REDACTED]; provided however, that if Buyer has not already exercised the Option or terminated the Option, Buyer shall be required to pay the following additional amounts to Seller: (1) an additional [REDACTED] or [REDACTED] ("First Option Money"); and (2) an additional [REDACTED] on [REDACTED] ("Second Option Money"). The foregoing payments shall collectively be deemed to be the "Additional Option Money"; and together with the Initial Option Money shall be referred to herein as the "Option Money". If any of the Option Money payments are not made as and when required hereunder, Seller shall have the right to terminate the Option early and retain the Option Money paid by Buyer prior to such termination. At Closing, the Initial Option Money and First Option Money will be applied as part payment of the Purchase Price. The Second Option Money shall not be applied as part payment of the Purchase Price."

3. Payments. Seller hereby acknowledges receipt of all Option Money properly due and payable pursuant to the Option Agreement as of the date hereof.

4. Miscellaneous. Except as specifically modified by this Second Amendment, all of the remaining terms and conditions set forth in the Option Agreement shall remain unchanged and in full force and effect. This Second Amendment may be executed by facsimile or PDF and in one or more counterparts,

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each of which shall be deemed an original, but all of which shall constitute one and the same original.

IN WITNESS WHEREOF, Seller and Buyer, acting through their duly authorized representatives, have made and entered into this Second Amendment as of the date first listed above.

SELLER:

By: Patricia H. Spencer
Name: Patricia H. Spencer

BUYER:

BLUEBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____
Name: _____
Title: _____

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each of which shall be deemed an original, but all of which shall constitute one and the same original.

IN WITNESS WHEREOF, Seller and Buyer, acting through their duly authorized representatives, have made and entered into this Second Amendment as of the date first listed above.

SELLER:

By: _____
Name: Patricia H. Spencer

BUYER:

BLUEBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____
Name: William Bulley
Title: Authorized Signatory

CONFIDENTIAL

COMMONWEALTH OF KENTUCKY

COUNTY OF BOURBON

OPTION AGREEMENT

THIS AGREEMENT is made and entered into this day of Oct. 3, 2019 (the "**Effective Date**"), by and between Patricia H. Spencer (herein called "**Seller**") and Bluebird Solar LLC, a Kentucky limited liability company (herein called "**Buyer**").

WITNESSETH

1. **Grant of Option.** For and in consideration of [REDACTED] to be paid to Seller within 30 days of the Effective Date which payments shall be deemed to be the "**Initial Option Money**" and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller and Buyer, Seller does hereby give, grant and convey unto Buyer the right, privilege and option to purchase, subject to and in accordance with all of the terms and conditions of this Agreement, all that certain tract of real estate containing approximately 362 acres, and more particularly described on **Exhibit "A"** attached hereto, together with all rights, ways and easements appurtenant thereto, and together with all, if any, buildings, structures and other improvements located thereon and all fixtures attached or affixed, actually or constructively, thereto or to any such buildings, structures or other improvements (all of which is hereinafter collectively called the "**Property**"). (The option to purchase granted hereby is hereinafter called the "**Option**").

2. **Term of Option.** The Option shall remain in full force and effect from the Effective Date until 11:59 P.M. on [REDACTED]; provided however, that if Buyer has not already exercised the Option or terminated the Option, Buyer shall be required to pay the following additional amounts to Seller: an additional [REDACTED] on [REDACTED]. The foregoing payments shall, collectively, be deemed to be the "**Additional Option Money**"; and together with the Initial Option Money shall be referred to herein as the "**Option Money**". If any of the Option Money payments are not made as and when required hereunder, Seller shall have the right to terminate the Option early and retain the Option Money paid by Buyer prior to such termination. At Closing, the Option Money will be applied as part payment of the Purchase Price.

3. **Exercise of Option.** The Option may be exercised at any time prior to the expiration thereof only by Buyer's giving written notice to Seller of its exercise of the Option. Upon the exercise of the Option, this Agreement shall become a purchase and sale agreement among Seller and Buyer. (The date upon which Buyer exercises the Option is hereinafter called the "**Option Exercise Date**"). For the avoidance of doubt, Buyer may not exercise the Option as to a portion of the property.

4. **Purchase Price: Method of Payment.** The purchase price for the Property (herein called the "**Purchase Price**"), shall be [REDACTED] per acre, as determined in accordance with the Survey pursuant to Paragraph 9 hereof. The Purchase Price, subject to the application of the Option Money and prorations and adjustments hereinafter described, shall be paid by Buyer to Seller at Closing, hereinafter defined.

5. **Closing.** The closing of the purchase and sale of the Property (herein called "**Closing**"), shall be held at the offices of Kilpatrick Townsend & Stockton LLP, Suite 1400, 4208 Six Forks Road, Raleigh, North Carolina 27609. at such time and on such date (herein called the "**Closing Date**"), as may be specified by written

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notice from Buyer to Seller not less than ten (10) days prior thereto; provided, however, that the Closing Date shall be on or before the date one hundred eighty (180) days after the Option Exercise Date (herein called the "**Final Closing Date**") and, if Buyer shall fail to give notice designating the Closing Date, the Closing Date shall be, and the Closing shall take place on the Final Closing Date. In the event Buyer specifies a date earlier than the Final Closing Date as the Closing Date, Buyer may thereafter postpone the Closing Date to a later date on or before the Final Closing Date by written notice from Buyer to Seller on or before the last date specified as the Closing Date.

6. **Access and Inspection; Delivery of Documents and Information by Seller; Examination by Buyer.**

a. Between the Effective Date and the Closing Date, Buyer and Buyer's agents and designees shall have the right to enter the Property for the purposes of inspecting and investigating the Property, conducting soil tests, and making surveys, structural engineering studies, environmental assessments, and any other investigations and inspections as Buyer may reasonably require to assess the condition of the Property ; provided, however, that such activities by or on behalf of Buyer on the Property shall not materially damage the Property or any livestock, hay, farm equipment and any such other personal property found on the Property ("Farm Property"). Buyer shall at Buyer's expense, promptly repair any damage to the Property and/or Farm Property resulting from any activities of Buyer or Buyer's agents and designees unless Buyer exercises the Option. Buyer will indemnify and hold Seller harmless from all loss, damage, claims, suits or costs, which shall arise out of any contract, agreement, or injury to any person or property as a result of any activities of Buyer and Buyer's agents and designees relating to the Property and/or Farm Property. This indemnity shall survive this contract and any termination hereof, but Buyer shall not be responsible for any loss, damage, claim, suit or cost arising out of pre-existing conditions of the Property and/or out of Seller's negligence or willful acts or omissions. Indemnification of Seller under this paragraph shall be in addition to and not limited by the liquidated damage provisions of Paragraph 15(a).

b. On or before the date ten (10) days after the Effective Date, Seller shall deliver to Buyer, if not previously delivered, or make available to Buyer for examination or copying by Buyer, at the address for Buyer set forth below Buyer's execution of this Agreement, the following documents and information with respect to the Property: all surveys, plans, specifications, environmental, engineering and mechanical data relating to the Property, and reports such as soils reports and environmental audits, real property and other ad valorem tax bills and utility bills which are in Seller's possession or which Seller can obtain with reasonable effort.

7. **Prorations and Adjustments to Purchase Price.**

a. The following prorations and adjustments shall be made between Buyer and Seller at Closing, or thereafter if Buyer and Seller shall agree:

i. All city, state and county ad valorem taxes and similar impositions levied or imposed upon or assessed against the Property (herein called the "**Taxes**"), for the year in which Closing occurs shall be prorated as of the Closing Date. In the event Seller has paid only a portion of the Taxes billed for the year in which Closing occurs due to the pendency of a protest of such Taxes, then, in connection with Closing, Seller shall deposit with a title company reasonably acceptable to Buyer (the title company so selected, the "**Escrow Agent**") an amount equal to Seller's pro rata share of the resulting underpayment. Any such deposit with Escrow Agent shall be held in escrow by Escrow Agent pending final resolution of such protest, pursuant to escrow instructions reasonably acceptable in form and substance to Buyer, Seller, Escrow Agent and their respective counsel. In the event that, after the Closing Date, any additional Taxes are levied, imposed upon or assessed against the Property for periods prior to the Closing Date, Buyer shall give Seller written notice of such Taxes, and Seller shall be responsible for payment of such additional

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Taxes in full within the time fixed for payment thereof and before the same become delinquent. Without limiting the obligations of Seller pursuant to the immediately preceding sentence, Seller shall, and does hereby, indemnify, defend and hold harmless Buyer from and against any such additional Taxes (including all interest and penalties assessed or imposed in connection therewith) relating to periods prior to the Closing Date.

ii. Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated as of the Closing Date.

In the event that the amount of any item to be prorated is not determinable at the time of Closing, such proration shall be made on the basis of the best available information, and the parties shall re-prorate such item promptly upon receipt of the applicable bills therefor and shall make between themselves any equitable adjustment required by reason of any difference between the estimated amount used as a basis for the proration at Closing and the actual amount subject to proration. In the event any prorated item is due and payable at the time of Closing, the same shall be paid at Closing. If any prorated item is not paid at Closing, Seller shall deliver to Buyer the bills therefor promptly upon receipt thereof and Buyer shall be responsible for the payment in full thereof within the time fixed for payment thereof and before the same shall become delinquent. In making the prorations required by this paragraph, the economic burdens and benefits of ownership of the Property for the Closing Date shall be allocated to Seller.

b. Except as expressly set forth in this Agreement, Buyer shall not assume any liability, indebtedness, duty or obligation of Seller of any kind or nature whatsoever, and Seller shall pay, satisfy and perform all of the same.

8. **Title.** Seller covenants to convey to Buyer at Closing good and marketable fee simple title in and to the Property. For the purposes of this Agreement, "good and marketable fee simple title" shall mean fee simple ownership which is insurable by a title insurance company reasonably acceptable to Buyer, at then current standard rates under the standard form of ALTA owner's policy of title insurance (ALTA Form 2006), with the standard or printed exceptions therein deleted and without exception other than for title exceptions approved by Buyer in writing, in its sole and absolute discretion. Buyer commits to doing a preliminary title search and notifying Seller of any preliminary title issues within ninety (90) days of the Effective Date. Resolution of such preliminary title issues may not be sufficient to satisfy Seller's covenant to convey good and marketable fee simple title in and to the Property under this Paragraph 8.

9. **Survey.** Buyer shall have the right to cause a survey of the Property to be prepared by a surveyor registered and licensed in the Commonwealth of Kentucky and designated by Buyer, which survey shall depict such information as Buyer shall require. Upon completion of a plat of the survey, Buyer shall furnish Seller with a copy thereof. The survey shall be used as the basis for the preparation of the legal description to be included in the special warranty deed to be delivered by Seller to Buyer at Closing.

10. **Proceedings at Closing.** On the Closing Date, the Closing shall take place as follows:

a. Seller shall deliver to Buyer the following documents and instruments, duly executed by or on behalf of Seller: (i) a special warranty deed (that is, a deed containing warranties of title as to matters arising by, through or under Seller, but not otherwise), conveying the Property subject to the title exceptions approved by Buyer in writing, in its sole and absolute discretion; (ii) a seller's affidavit with respect to the Property, concerning, the possession of the Property, improvements or repairs made on the Property within ninety (90) days of the Closing Date and the absence of legal proceedings against Seller; (iii) if Seller is not a Foreign Person, a certificate and affidavit of non-foreign status; (iv) a completed 1099-S request for taxpayer identification number and certification and acknowledgment; and (v) evidence reasonably satisfactory to the issuer of Buyer's policy of title insurance covering the Property that Seller, and the entities and individuals

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executing the foregoing documents on behalf of Seller, have authority to execute such documents, and to consummate the purchase and sale of the Property pursuant to this Agreement.

b. Buyer shall pay the Purchase Price to Seller in accordance with the provisions of this Agreement; provided, however, that Buyer shall receive a credit against the Purchase Price for the entire amount of the Option Money, and any other amounts paid by Buyer to Seller under this Agreement prior to the Closing Date unless such payments are made to repair or replace damage to the Property or the Farm Property. If the option is not exercised by Buyer, the Option Money will be retained by Seller.

11. **Costs of Closing.** Seller shall pay all recording costs and other costs relating to any title clearance matters and Seller's attorneys' fees. Buyer shall pay all recording costs relating to the purchase by Buyer of the Property, the cost of any survey obtained pursuant to Paragraph 9 hereof, the premium for any owner's policy of title insurance issued in favor of Buyer insuring Buyer's title to the Property and Buyer's attorneys' fees. All other costs and expenses of the transaction contemplated hereby shall be borne by the party incurring the same.

12. **Warranties, Representations and Additional Covenants of Seller.** Seller represents, warrants and covenants to and with Buyer, knowing that Buyer is relying on each such representation, warranty and covenant, that:

- a. Seller is the sole owner of the Property.
- b. Seller has the lawful right, power, authority and capacity to sell the Property in accordance with the terms, provisions and conditions of this Agreement.
- c. There are no actions, suits or proceedings pending or threatened against, by or affecting Seller which affect title to the Property or which question the validity or enforceability of this Agreement or of any action taken by Seller under this Agreement, in any court or before any governmental authority, domestic or foreign.
- d. The execution of and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated by and provided for in this Agreement, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Seller is a party, any judicial order or judgment of any nature by which Seller is bound; and this Agreement, and the covenants and agreements of Seller under this Agreement, are the valid and binding obligations of Seller, enforceable in accordance with their terms.
- e. To the best of Seller's knowledge, no portion of the Property is used or has ever been used for the storage, processing, treatment or disposal of Pollutants; the Improvements do not contain, nor have they ever contained, Pollutants; no Pollutants have been released, introduced, spilled, discharged or disposed of, nor has there been a threat of release, introduction, spill, discharge or disposal of a Pollutant, on, in, or under the Property; there are no pending claims, administrative proceedings, judgments, declarations, or orders, whether actual or threatened, relating to the presence of Pollutants on, in or under the Property; the Property is in compliance with all federal, state and local laws, regulations, orders and requirements regarding the regulation of Pollutants; no Pollutants have been released, introduced, spilled, discharged or disposed of on, in or under any adjacent property; and there are no underground storage tanks located on or in the Property. As used in this Agreement, "**Pollutants**" means any material or substance, or combination of materials or substances, which by reason of quantity, concentration, composition, or characteristic is or in the future becomes regulated under any federal, state or local environmental or common law, rule, regulation, ordinance or

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requirement, as may be amended, replaced or superseded, and shall include, without limitation: (i) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. § 69601 et seq.; (ii) any material identified as a hazardous waste under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C.A. § 6901 et seq.; (iii) any material regulated as a Toxic pollutant as defined under the Federal Water Pollution Control Act, 33 U.S.C.A. § 1251 et seq.; (vi) any hazardous substance or toxic pollutant as defined under the Federal Water Pollution Control Act, 33 U.S.C.A. § 1251 et seq.; (vii) any hazardous substance as defined by the Oil Pollution Act, 33 U.S.C.A. § 2701 et seq.; (viii) any hazardous air pollutant as defined under the Federal Clean Air Act, 42 U.S.C.A. § 7401 et seq.; (ix) any substance regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C.A. § 135 et seq.; (x) a special nuclear or byproduct material within the meaning of the Atomic Energy Act, 42 U.S.C.A. § 2014 et seq.; and (xi) any material or substance, or combination of materials or substances displaying any explosive, volatile, radioactive, toxic, corrosive, flammable, ignitable or reactive characteristic or which may cause a nuisance, injury, harm or degradation to human health, welfare or the environment. Notwithstanding the foregoing, Seller states that fertilizer, lime and other substances used in the normal course of farming the Property have been applied to the property in customary amounts as to grow grass and hay for cattle, and Buyer acknowledges that such is not a violation of this Paragraph 12.

f. There are no pending, threatened or contemplated condemnation actions involving all or any portion of the Property; and, to the best of Seller's knowledge and belief, there are no existing, proposed or contemplated plans to widen, modify or realign any public rights-of-way located adjacent to any portion of the Land.

g. All information and data furnished by Seller to Buyer with respect to the Property will be true, correct, complete and not misleading to the best of Seller's knowledge, information, and belief.

h. Seller will not cut, remove, market or sell any timber or trees located on the Property from and after the Effective Date ("**Seller's Timber Warranty**") without the consent of Buyer. Buyer shall be entitled to all proceeds from the cutting, removing, marketing, or selling of timber or trees located on the Property from and after the Effective Date. Seller shall reasonably cooperate with Buyer's cutting, removing, marketing, or selling of timber or trees located on the Property.

i. Seller will not intentionally, knowingly, or negligently cause or permit any action to be taken which will cause any of the foregoing representations, warranties or covenants to be untrue or unperformed on the Closing Date; and Seller will not intentionally, knowingly, or negligently cause or permit any action to be taken which will cause any of the conditions of Buyer's obligations set forth in Paragraph 13, below, to be unsatisfied or unperformed on or as of the Closing Date.

j. Seller will deliver on the Closing Date all documents and instruments required by this Agreement and perform all acts reasonably necessary or appropriate for the consummation of the purchase and sale of the Property as contemplated by and provided for in this Agreement.

k. Subject to Paragraph 22, Seller may, at her sole discretion, continue farming operations on the Property until Buyer takes possession of the Property, and nothing in this Agreement shall prohibit Seller's right to conduct farming activity of any kind, except as expressly stated herein. Further, Seller shall not be penalized nor shall any activity or alteration of the Property under the normal course of farming be deemed to have damaged or otherwise adversely affected the Property under this Agreement and Buyer acknowledges that such is not a violation of this Agreement or breach hereof.

Seller acknowledges and agrees that no examination or investigation of the Property or of the operation of the Property by or on behalf of Buyer prior to Closing shall in any way modify, affect or diminish Seller's obligations under the representations, warranties, covenants and agreements set forth in this Agreement.

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13. **Conditions of Buyer's Obligations.** Buyer's obligation to consummate the purchase and sale of the Property on the Closing Date shall be subject to the satisfaction or performance of the following terms and conditions, any one or more of which may be waived in writing by Buyer, in whole or in part, on or as of the Closing Date:

a. Seller shall have fully and completely kept, observed, performed, satisfied and complied with all terms, covenants, conditions, agreements, requirements, restrictions and provisions required by this Agreement to be kept, observed, performed, satisfied or complied with by Seller before, on or as of the Closing Date;

b. The representations and warranties of Seller in this Agreement (and the substantive facts contained in any representations and warranties limited to Seller's knowledge and belief) shall be true and correct, and certified by Seller to Buyer as such, on and as of the Closing Date, in the same manner and with the same effect as though such representations and warranties had been made on and as of the Closing Date; and

c. Buyer shall not have terminated this Agreement pursuant to an express right so to terminate set forth in this Agreement.

If any of the foregoing conditions have not been satisfied or performed or waived in writing by Buyer on or as of the Closing Date, Buyer shall have the right, at Buyer's option, either: (i) to terminate this Agreement by giving written notice to Seller on or before the Closing Date, in which event all rights and obligations of Seller and Buyer under this Agreement, except those which by their terms provide that they shall survive, shall expire, and this Agreement shall become null and void; or (ii) if such failure of condition constitutes a breach of representation or warranty by Seller, constitutes a failure by Seller to perform any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions of this Agreement, or otherwise constitutes a default by Seller under this Agreement, to exercise such rights and remedies as may be provided for in Paragraph 15 of this Agreement. In either of such events, the Option Money shall be refunded to Buyer immediately upon request.

14. **Possession at Closing.** Provided that Buyer fulfills its obligations hereunder, including payment of the Purchase Price, Seller shall surrender possession of the Property to Buyer on the Closing Date.

15. **Remedies.**

a. If the purchase and sale of the Property is not consummated in accordance with the terms and conditions of this Agreement due to circumstances or conditions which constitute a default by Buyer under this Agreement, the Option Money shall be retained by Seller as full liquidated damages for such default. Seller and Buyer acknowledge that Seller's actual damages in the event of a default by Buyer under this Agreement will be difficult to ascertain, that such liquidated damages represent the Seller's and Buyer's best estimate of such damages, and that Seller and Buyer believe such liquidated damages are a reasonable estimate of such damages. Seller and Buyer expressly acknowledge that the foregoing liquidated damages are intended not as a penalty, but as full liquidated damages, as permitted by applicable law, in the event of Buyer's default and as compensation for Seller's taking the Property off the market during the term of this Agreement. Except as provided by Paragraph 6(a) such retention of the Option Money shall be the sole and exclusive remedy of Seller by reason of a default by Buyer under this Agreement, and Seller hereby waives and releases any right to sue Buyer, and hereby covenants not to sue Buyer, for specific performance of this Agreement or to prove that Seller's actual damages exceed the Option Money which is herein provided Seller as full liquidated damages.

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b. In the event of a material breach by Seller of any representation or warranty under the terms of this Agreement; or of any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions required by this Agreement; or if the purchase and sale of the Property is otherwise not consummated in accordance with the terms and provisions of this Agreement due to circumstances or conditions which constitute a material breach by Seller under this Agreement, and said conditions have not been waived in writing by Buyer on or as of the Closing Date, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving written notice to Seller on or before the Closing Date, in which event all rights and obligations of Seller and Buyer under this Agreement, except those which by their terms provide that they shall survive, shall expire, and this Agreement shall become null and void. In such event, the Option Money shall be refunded to Buyer immediately upon request.

16. **Risk of Loss and Insurance.** Between the Effective Date and Closing, the risks and obligations of ownership and loss of the Property and the correlative rights against insurance carriers and third parties shall belong to Seller. In the event of the damage or destruction of any portion of the Property other than crops or timber prior to Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving written notice thereof to Seller prior to Closing, in which event the Option Money shall be refunded to Buyer immediately upon request, all rights and obligations of Seller and Buyer under this Agreement, except those which by their terms provide that they shall survive, shall expire, and this Agreement shall become null and void. If Buyer does not so terminate this Agreement, the Purchase Price shall be reduced by the total of any insurance proceeds received by Seller prior to Closing by reason of such damage or destruction and by the amount of any deductible applicable to the policy of insurance, and, at Closing, Seller shall assign to Buyer all insurance proceeds to be paid or to become payable after Closing by reason of such damage or destruction. Seller shall notify Buyer of the damage or destruction of any portion of the Property other than crops or timber within five (5) days after Seller learns thereof.

17. **Condemnation.** In the event of the taking of all or any part of the Property by eminent domain proceedings, or the commencement or bona fide threat of the commencement of any such proceedings, prior to Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving written notice thereof to Seller prior to Closing, in which event the Option Money shall be refunded to Buyer immediately upon request, all rights and obligations of Seller and Buyer under this Agreement shall expire, and this Agreement shall become null and void. If Buyer does not so terminate this Agreement, the Purchase Price shall be reduced by the total of any awards or other proceeds received by Seller prior to Closing with respect to any taking, and, at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds to be paid or to become payable after Closing by reason of any taking. Seller shall notify Buyer of eminent domain proceedings within **five (5) days** after Seller learns thereof.

18. **Broker and Commission.** All negotiations relative to this Agreement and the purchase and sale of the Property as contemplated by and provided for in this Agreement have been conducted by and between Seller and Buyer without the intervention of any person or other party as agent or broker. Seller and Buyer warrant and represent to each other that Seller and Buyer have not entered into any agreement or arrangement and have not received services from any broker or broker's employees or independent contractors which would give rise to any claim of lien or lien against the Property, and there are and will be no broker's commissions or fees payable in connection with this Agreement or the purchase and sale of the Property by reason of their respective dealings, negotiations or communications.

19. **Further Assurances; Survival.** At Closing, and from time to time thereafter, Seller shall do all such additional and further acts, and shall execute and deliver all such additional and further deeds, affidavits, instruments, certificates and documents, as Buyer, Buyer's counsel or Buyer's title insurer may reasonably require fully to vest in and assure to Buyer full right, title and interest in and to the Property to the full extent contemplated by this Agreement and otherwise to effectuate the purchase and sale of the Property as contemplated by and provided for in this Agreement. All the provisions of this Agreement (including, without

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limitation, the representations, covenants and warranties of Seller as set forth in this Agreement), shall survive the consummation of the purchase and sale of the Property on the Closing Date, the delivery of the deed to Buyer and the payment of the Purchase Price. Notwithstanding any provision of this Agreement to the contrary, the indemnification provisions of this Agreement shall survive any termination of this Agreement.

20. **Estoppel Certificate.** At any time and from time to time, within ten (10) days after Buyer requests the same, Seller will execute, acknowledge, and deliver to Buyer, or to any other party as may be designated by Buyer, a statement by Seller certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the amounts of Option Money or other sums, if any, which are payable under this Agreement and the dates on which the Option Money or other sums have been paid, (iii) that Seller is not in default in the performance of any of its obligations under this Agreement and no event has occurred which, with the giving of notice or the passage of time, or both, would constitute such a default, (iv) whether or not, to the best knowledge of the person certifying on behalf of Seller, Buyer is in default in the performance of any of its obligations under this Agreement and, if so, specifying the same, and whether or not, to the best knowledge of such person, any event has occurred which, with the giving of notice or the passage of time, or both, would constitute such a default (v) whether or not Seller has any claims, defenses or counterclaims against Buyer under this Agreement and, if so, specifying the same, it being intended that any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by Buyer and by others with whom Buyer may be dealing, regardless of independent investigation, and (vi) and such other matters relating to this Agreement or the status of performance of obligations of the parties hereunder as may be reasonably requested by Buyer.

21. **General Provisions.**

a. **Notices.** Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally recognized commercial courier for next business day delivery, to the addresses set forth below their respective executions hereof, or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below their respective executions hereof, or to such other numbers as are specified by written notice given in accordance herewith. All notices, demands or requests delivered by hand shall be deemed given upon the date so delivered; those given by mailing as hereinabove provided shall be deemed given on the date of deposit in the United States Mail; those given by commercial courier as hereinabove provided shall be deemed given on the date of deposit with the commercial courier; and those given by facsimile shall be deemed given on the date of facsimile transmittal. Nonetheless, the time period, if any, in which a response to any notice, demand or request must be given shall commence to run from the date of receipt of the notice, demand or request by the addressee thereof. Any notice, demand or request not received because of changed address or facsimile number of which no notice was given as hereinabove provided or because of refusal to accept delivery shall be deemed received by the party to whom addressed on the date of hand delivery, on the date of facsimile transmittal, on the first calendar day after deposit with commercial courier, or on the third calendar day following deposit in the United States Mail, as the case may be.

b. **Facsimile as Writing.** The parties expressly acknowledge and agree that, notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile or electronic transmittal shall be deemed to be "written" and a "writing" for all purposes of this Agreement.

c. **Assignment; Parties.** This Agreement may be assigned by Buyer, in whole or in part without Seller's consent but upon prior notice to Seller and any such assignment shall relieve Buyer of liability for the performance of Buyer's duties and obligations under this Agreement to the extent of such

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assignment. Except as provided in this section, this Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Buyer and Seller and their respective legal representatives, successors and assigns.

d. **Pronouns.** Wherever appropriate in this Agreement, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

e. **Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

f. **Non-Waiver.** Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

g. **Time of Essence; Dates.** Time is of the essence of this Agreement. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Agreement. If any date set forth in this Agreement shall fall on, or any time period set forth in this Agreement shall expire on, a day which is a Saturday, Sunday, federal or state holiday, or other non-business day, such date shall automatically be extended to, and the expiration of such time period shall automatically to be extended to, the next day which is not a Saturday, Sunday, federal or state holiday or other non-business day. The final day of any time period under this Agreement or any deadline under this Agreement shall be the specified day or date, and shall include the period of time through and including such specified day or date. All references to the "**Effective Date**" shall be deemed to refer to the later of the date of Buyer's or Seller's execution of this Agreement, as indicated below their executions hereon.

h. **Applicable Law.** This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the Commonwealth of Kentucky.

i. **Entire Agreement; Modification.** This Agreement supersedes all prior discussions and agreements among Seller and Buyer with respect to the purchase and sale of the Property and other matters contained herein, and this Agreement contains the sole and entire understanding among Seller and Buyer with respect thereto. This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Seller and Buyer.

j. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

k. **Counsel.** Each party hereto warrants and represents that each party has been afforded the opportunity to be represented by counsel of its choice in connection with the execution of this Agreement and has had ample opportunity to read, review, and understand the provisions of this Agreement.

l. **No Construction Against Preparer.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.

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m. **Offer and Acceptance.** This instrument shall constitute an offer by Buyer to Seller and shall remain open for acceptance until 5:00 p.m., Charlotte, North Carolina time, on the later of [REDACTED] or such other date as may be specified in writing by the offeror. In order for this offer to be validly accepted, two (2) counterparts of this Agreement, fully executed on behalf of the offeree, must have been actually delivered to the offeror prior to the expiration of the offer.

n. **Memorandum of Option.** Seller shall execute, notarize, and deliver any commercially reasonable memorandum of this Agreement that is prepared by Buyer and delivered to Seller, which memorandum may be recorded in the applicable land records by Buyer, at Buyer's sole cost and expense.

22. **Operations Prior to Closing Date.** Prior to the Closing Date, Seller shall continue to operate the Property in a commercially reasonable manner consistent with past practice of Seller; provided, however, that in accordance with Seller's Timber Warranty, Seller will not cut, remove, market or sell any timber or trees located on the Property from and after the Effective Date of this Agreement. Thirty (30) days prior to Closing, Buyer may give written notice to Seller that Seller is to cease planting crops on the Property and Seller hereby agrees to refrain from planting any additional crops. If at the Closing of the purchase of the Property, Seller has undertaken the cultivation or planting of any crops (prior to receipt of written notice that Seller is to cease planting crops) which are not harvested before Closing, Buyer will either (i) allow Seller reasonable access to the Property so that Seller may cultivate and harvest the crops until December 31 of that year, or (ii) Buyer will pay to Seller the commercially reasonable value of the crop if sold at full maturity if Buyer gives Seller written notice that Seller will not be allowed to complete the cultivation and harvesting of crops for that year (such payment to be made within ninety (90) days of such notice and is non-refundable).

23. **Tax-Deferred Exchange.** In the event Buyer or Seller desires to affect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to reasonably cooperate in effecting such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be reasonably required to give effect to this provision.

24. **Permitting.** Buyer shall be entitled to perform transmission studies and other permitting, engineering and other studies and tests as Buyer determines are needed to ascertain the suitability of the Property for solar development. Further, Seller hereby agrees that Buyer may, if it so elects at any time and from time to time, commence taking any and all actions that Buyer determines may be necessary or proper for implementing such studies or preparing the Property for the permitting of a solar project. All costs and expenses that may be incurred with respect to any such permitting shall be paid by Buyer. Seller shall cooperate in good faith with Buyer in Buyer's efforts to perform such studies and/or commence permitting of the Property for solar development, and shall promptly perform such further acts as may be necessary or appropriate to carry out and accomplish the intent of this Agreement; and Seller shall, without demanding additional consideration therefor, execute, and, if appropriate, cause to be acknowledged and recorded, and return to Buyer within ten (10) business days of receipt, any map, application, document or instrument that is reasonably requested by Buyer in connection therewith. In connection with the foregoing, Buyer shall have the right to (a) meet with governmental agencies in connection with or relating to, or which have jurisdiction over or an interest in, the Property or any portion thereof, or the development or use thereof, and (b) discuss with any such agencies the terms of this Agreement, the terms of any contractual arrangements between Seller and any such agency, and any other matters relating to the Property and Buyer's intended development activities.

[Signature Pages Follow]

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IN WITNESS WHEREOF. The parties have caused their duly authorized representatives to execute, seal and deliver this Agreement, all as of the day and year first written above.

SELLER:

Signed, sealed, and delivered in the presence of

Patricia H. Spencer
Patricia H. Spencer

Unofficial Witness

By: _____

Emily Clifford
Notary Public Notary ID 606115

My Commission Expires:

8/06/2022
(Notarial Seal)

Initial address for notices:

Patricia H. Spencer
2339 US Hwy 421 S.
Frankfort, Ky 40601

Telephone Number: 502 695 3076

Telecopy Number: _____

With copy to:

Mike Spencer
2245 Ninevah Rd.
Frankfort, Ky 40601

Telephone Number: 502 545 0550

Telecopy Number: _____

Date of Seller's Execution:

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BUYER

Signed, sealed, and delivered in the presence of

Bluebird Solar LLC

By: _____

Unofficial Witness

Name: _____

Title: _____

Notary Public

Initial Address for notices:

My Commission Expires:

(Notarial Seal)

7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam
Telephone Number: (704) 574-1587
Telecopy Number: _____

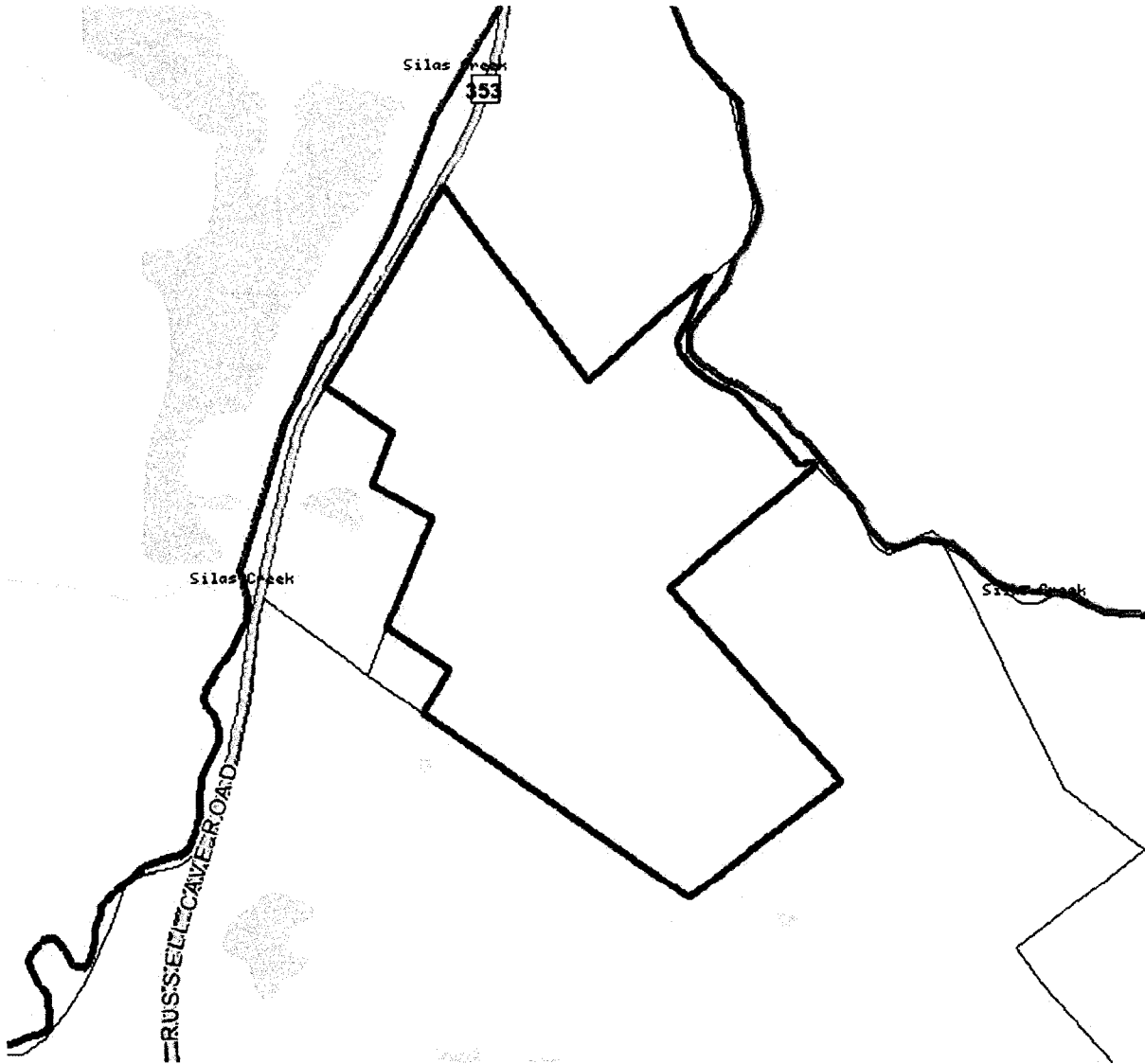
With copy to:

Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston
Telephone Number: (919) 260-1768
Telecopy Number: (919) 510-6143

Date of Buyer's Execution:

Exhibit A

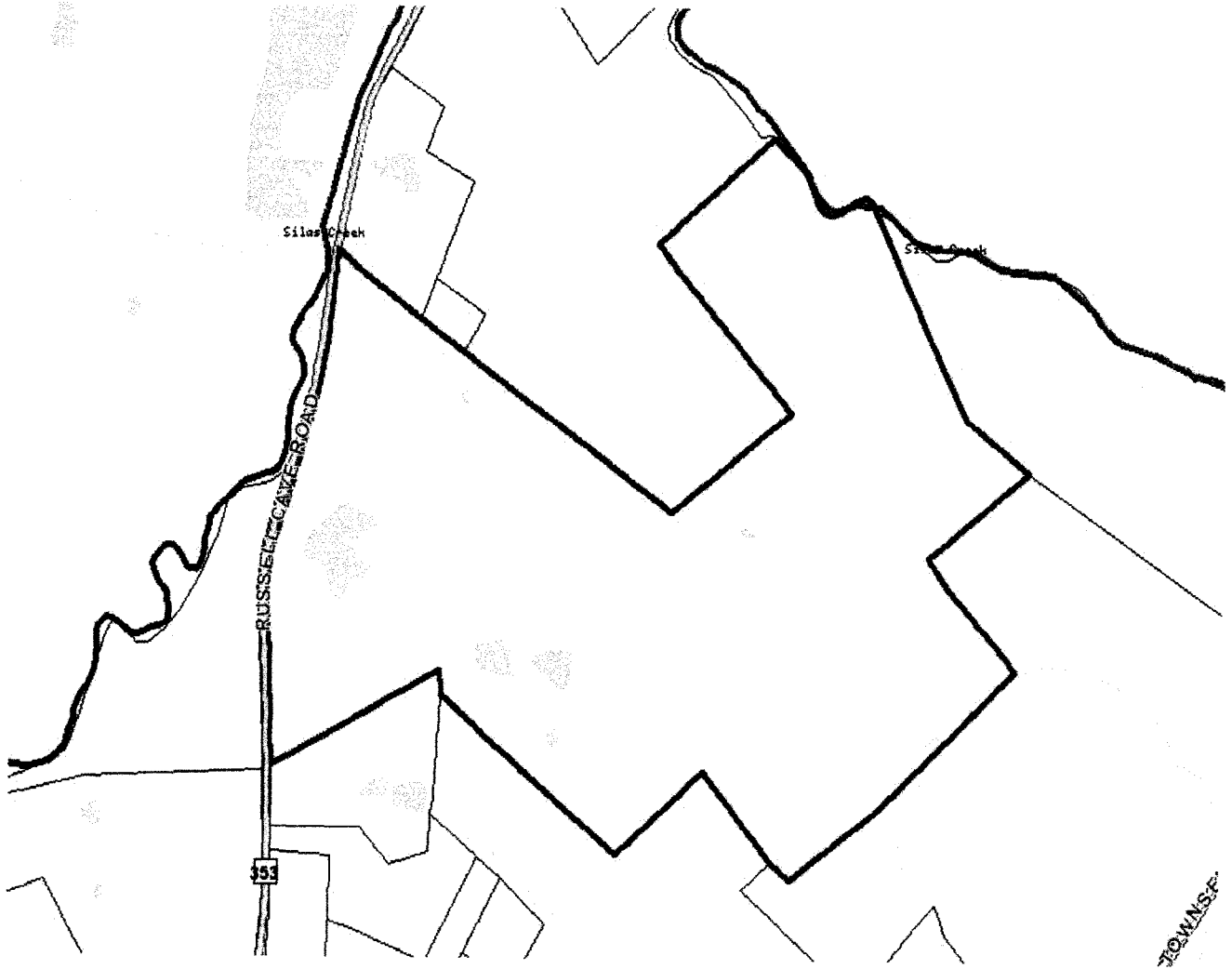
Property



Patricia H. Spencer

Parcel ID: 007-00-00-002.00

106 Acres



Patricia H. Spencer

Parcel ID: 008-00-00-001.00

256 Acres

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FIRST AMENDMENT TO SOLAR GROUND LEASE AGREEMENT

THIS FIRST AMENDMENT TO SOLAR GROUND LEASE AGREEMENT (this "**Amendment**") is made as of the 11th day of January, 2022 by and between **Gerald M. Whalen** ("**Landlord**"), and **Bluebird Solar LLC**, a Kentucky limited liability company ("**Tenant**").

BACKGROUND:

A. Landlord and Tenant are parties to that certain Solar Ground lease Agreement dated September 9, 2016, (the "Effective Date") a Memorandum of which was recorded on April 10, 2017, in Book 347 at Page 681, in the official public records of Harrison County, Kentucky (collectively, the "**Lease**"), pertaining to the property described therein (the "**Premises**"). Pursuant to the Lease, Landlord grants to Tenant an exclusive and irrevocable lease the Property on the terms and conditions set forth in the Lease; and

B. Landlord and Tenant desire to amend the Lease to make certain modifications thereto as are set forth in this Amendment.

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises and covenants contained in this Amendment and in the Lease, and intending to be legally bound by the terms of this Amendment, agree to amend the Lease as follows:

AGREEMENT:

1. Scope of Amendment; Defined Terms; Incorporation of Recitals. Except as expressly provided in this Amendment, the Lease shall remain in full force and effect in all respects and the term "**Lease**" shall mean the Lease as modified by this Amendment. Capitalized terms used but not otherwise defined in this Amendment have the respective meanings given to them in the Lease. The preamble and recitals set forth above, the truth and accuracy of which the parties hereby acknowledge, are hereby incorporated into this Amendment by this reference in their entirety.

2. Security for Payment. The following shall be added to the Lease as Section 2(i) as follows:

- (i) On or before the closing date of the Option (defined below), the Tenant shall contract with an escrow company selected in Tenant's discretion (the "Escrow Company") to deposit into escrow an amount equal to three years of Rent ("Security Deposit") to secure and guarantee the Rent for the [REDACTED] immediately following the Rent Commencement Date (the "Security Period"). The amount of the Security Deposit shall be based on a minimum of [REDACTED] acres with a starting annual rent of [REDACTED] per acre. In the event that Tenant elects to terminate this Lease after the closing date of the Option and before the end of the Security Period, then the Escrow Company shall distribute that prorated portion of the Security Deposit equal to the amount of Rent that would be due and payable for the remainder of the Security Period to the

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Landlord, with any undistributed portion of the Security Deposit refunded to Tenant. If, upon the expiration of the Security Period, this Lease has not been terminated, the Escrow Company shall release the Security Deposit to the Tenant and close the escrow. Any and all fees related to the Security Deposit shall be borne by the Tenant. Notwithstanding the foregoing, any annual rent payments due to the Landlord during the Security Period, shall continue to be paid by Tenant to Landlord on their respective payment due dates, pursuant to Section 2 of this Lease.

3. Option and Easement. The following shall be added to the Lease as Section 34 as follows:

34. Option and Easement. Tenant and Landlord contemporaneously herewith entered into an option agreement (the "Option") whereby Tenant is provided an option to purchase a portion of the property and subject to this Lease ("Option Property"). The Option also provides for a perpetual access easement (the "Easement") to a portion of the property subject to this Lease (the "Easement Property"). Landlord and Tenant agree that if Tenant exercises its option and the Option Property is conveyed to Tenant, the Option Property shall be released from the Lease. The Easement shall contain a section stating that the Landlord shall at all times throughout the Easement term be entitled to use and to grant to third parties the right to use the Easement Property for access so long as such use does not materially interfere with Tenant's use. For the avoidance of doubt, the minimum acreage of [REDACTED] acres of the Premises as set forth in Section 1(d) of the Lease shall continue to be in effect for the purposes of calculating rent after any release of the Option Property from the lease or grant of the Easement over the Easement Property.

4. Entire Agreement; No Amendment. This Amendment constitutes the entire agreement and understanding between the parties with respect to the subject of this Amendment and shall supersede all prior written and oral agreements concerning this subject matter. This Amendment may not be amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of Landlord and Tenant. Each party acknowledges that it has read this Amendment, fully understands all of this Amendment's terms and conditions, and executes this Amendment freely, voluntarily and with full knowledge of its significance. Each party to this Amendment has had the opportunity to receive the advice of counsel prior to the execution hereof.

5. Conflict and Ratification. In the event that any conflict or inconsistency between the terms and provisions of the Lease and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. Except as provided herein, the terms and conditions of the Lease shall remain unchanged and are hereby ratified and reaffirmed as of the date hereof and shall remain in full force and effect.

6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns under the Lease.

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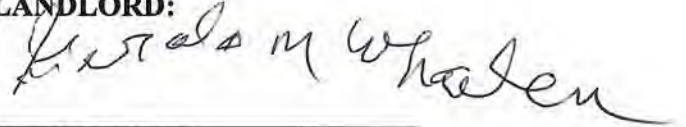
7. Counterparts. This Amendment may be executed in counterparts and in facsimile or by electronic copy, and such counterparts together shall constitute but one original of the Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

[signatures appear on following page]

COUNTERPART SIGNATURE PAGE

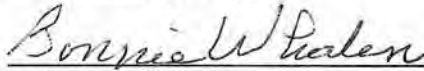
IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the day and year first above written.

LANDLORD:



Gerald M. Whalen

Spousal Consent (if any):

By: _____

Name: Bonnie Whalen

COUNTERPART SIGNATURE PAGE

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment as of the day and year first above written.

TENANT:

**Bluebird Solar LLC,
a Kentucky limited liability company**

By: Geoff Fallon

Name: Geoff Fallon

Title: Authorized Signatory

EXHIBIT A

Premises



Whalen, Gerald M.
Parcel ID: 66-0000-001-00-000, 182.85 acres

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 9 day of September, 2016 (the "Effective Date"), by and between GERALD M. WHALEN ("Landlord") and BLUEBIRD SOLAR LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, that certain property with a Parcel ID of 066-0000-001-00-000, containing approximately 182.85 acres, located at 477 Allen Pike, Cynthiana, Kentucky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each an "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

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(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED] Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than twenty-five (25) contiguous acres, and (ii) Landlord has access to the Released Premises. The

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portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) one hundred eighty two and 85/100 (182.85) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] per acre of land located within the Premises (prorated for any fractional acres) as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the

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first (1st) year following the Rent Commencement Date (the “Second Extension Fee”). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the “Third Extension Fee”). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the “**Notice of Proceeding**”) (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant’s sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the “**Farm Rent Offset**”), which shall be payable as follows; [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant’s giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant’s giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant’s request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

5. Alterations. Tenant shall install a chain link fence with green coating around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high, along with adequate security devices and signage appropriate to a solar farm where electricity is generated, vegetative screening between the solar farm and treets and adjacent residential usages and Tenant shall be solely responsible for the maintenance in good order of such fence, vegetation, security devices and signage throughout the Term. Landlord may identify to the Tennant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tennant. Tenant may, at its expense, make any other alterations,

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additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from sale of timber will be shared with the Landlord on a 50/50 basis. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power, interconnection to the transmission grid including substation and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises, and shall list Landlord as an "additional insured".

(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an

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increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon. The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

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11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect; Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may

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assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

- To Landlord: Gerald M. Whalen
101 S. Walnut St.
Cynthiana, KY 41031
- To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257
Charlotte, NC 28226
Attention: Juergen Fehr
- And to: Kilpatrik Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the

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Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as

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of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

(i) An exclusive easement for electrical interconnection purposes;

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(ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;

(iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;

(iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and

(v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

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27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

28. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors, shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

29. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

30. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

31. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any

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proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

32. Market Rate Adjustment. In consideration of Landlord's location under the transmission line and the potential use of the Premises for the interconnection infrastructure including substation and associated equipment, Tenant hereby agrees that if Tenant should agree to a higher annual rental rate with any neighboring landowners in connection with the same "Bluebird Solar" project that this Lease relates to, Tenant will agree to raise the annual rental rate under this Lease to match such agreed upon higher annual rental rate. Such rate calculation comparison shall be based on a direct comparison of the annual rent payments under each lease divided by the number of acres to be used for electric generation equipment under each lease.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

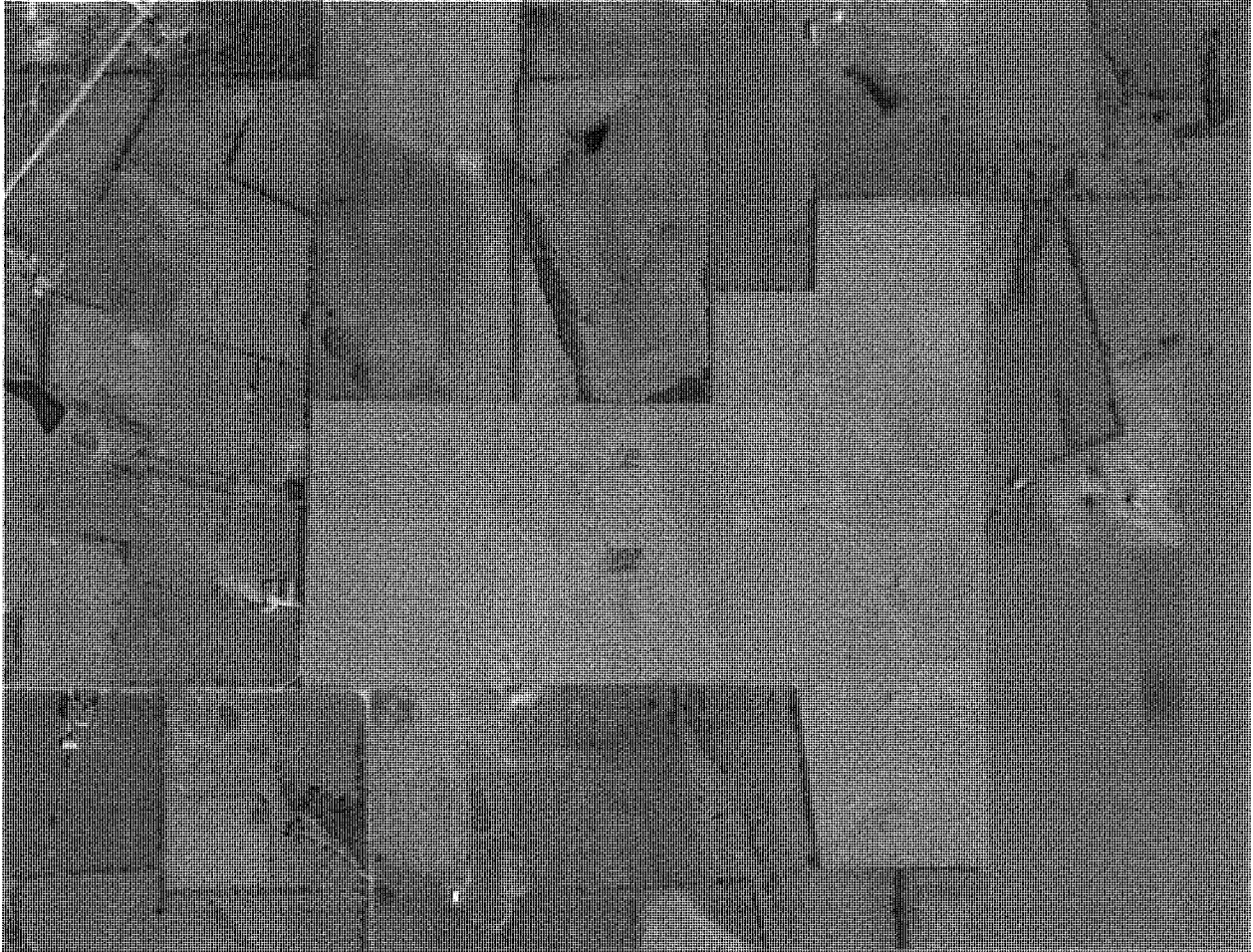
By: Gerald M. Whalen
Name: GERALD M. WHALEN
Title: _____

TENANT:

[Signature]
By: _____
Name: SURGEN FEHR
Title: MANAGER

EXHIBIT A

Premises



WHALEN GERALD M
Parcel ID: 66-0000-001-00-000, 182.85 Acres

BK 373 1/2 271

LODGED FOR RECORD
HARRISON COUNTY CLERK

SEP 24 2021
TIME 9:29 AM
LINDA S. BARNES
CLERK HARRISON CO.

Recording requested by and
when recorded mail to:

Bluebird Solar LLC
c/o BayWa r.e. Solar Projects, LLC
18575 Jamboree Road, Suite 850
Irvine, CA 92612
Attn: SVP, General Counsel

State of Kentucky, County of Harrison
I, Linda S. Barnes, Clerk of Harrison County, do hereby certify
that the foregoing easement was on the 24 day
of Sept 2021 at 9:29 AM; lodged in my office
certified as above for record; whereupon, the same and this
certificate are now duly recorded.
Given under my hand this 24 day of Sept 2021
Linda S. Barnes Clerk, By: Shelley Oppage

(space above this line for recorder's use)

**FIRST AMENDMENT TO TRANSMISSION, COMMUNICATIONS AND ACCESS
EASEMENT AGREEMENT**

THIS FIRST AMENDMENT TO TRANSMISSION, COMMUNICATIONS AND
ACCESS EASEMENT AGREEMENT (this "Amendment") is made, dated and effective as of
June 29, 2021, by and between **James Evans Wilson** (Address: 620 Allen Pike,
Cynthiana, KY 41031) and **Katherine Allen Wilson** (Address: 325 Colony Blvd., Lexington,
KY 40502) (collectively "Grantor"), and **Bluebird Solar LLC**, a Kentucky limited liability
company (Address: 18575 Jamboree Rd., Ste 850, Irvine, CA 92612), ("Grantee"), in light of the
following facts and circumstances:

RECITALS:

WHEREAS, Grantor and Grantee are parties to that certain Transmission,
Communications and Access Easement Agreement (the "Easement") dated March 4, 2021 (the
"Effective Date"), recorded on July 21, 2021, in Book 371, at Page 503, in the
official records of Harrison County, Commonwealth of Kentucky, pertaining to the real property
located in Harrison County, Commonwealth of Kentucky as described in Exhibit A-1 attached
hereto and incorporated herein by reference ("the Property").

WHEREAS, Grantor and Grantee desire to amend the Easement to make certain
modifications thereto as are set forth in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained
in this Amendment and in the Easement, are intending to be legally bound by the terms of this
Amendment, agree to amend the Easement as follows:

1. Scope of Amendment; Defined Terms; Incorporation of Recitals. Except as expressly provided in
this Amendment, the Easement shall remain in full force and effect in all respects and the term

“Easement” shall mean the Easement as modified by this Amendment. Capitalized terms used but not otherwise defined in this Amendment have the respective meanings given to them in the Easement. The preamble and recitals set forth above, the truth and accuracy of which the parties hereby acknowledge, are hereby incorporated into this Amendment by this reference in their entirety.

2. Easement Area. Pursuant to Section 2 of the Easement, Exhibit A-2 of the Easement is hereby deleted and replaced with Exhibit A-2 attached hereto and incorporated herein by reference.
3. Payment. Exhibit B of the Easement is hereby deleted in its entirety and replaced with Exhibit B attached hereto and incorporated herein by reference. The Parties agree that Exhibit B shall not be recorded.
4. Entire Agreement; No Amendment. This Amendment constitutes the entire agreement and understanding between the parties with respect to the subject of this Amendment and shall supersede all prior written and oral agreements concerning this subject matter. This Amendment may not be amended, modified or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of Grantor and Grantee. Each party acknowledges that it has read this Amendment, fully understands all of this Amendment’s terms and conditions, and executes this Amendment freely, voluntarily and with full knowledge of its significance. Each party to this Amendment has had the opportunity to receive the advice of counsel prior to the execution hereof.
5. Conflict and Ratification. In the event that any conflict or inconsistency between the terms and provisions of the Easement and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. Except as provided herein, the terms and conditions of the Easement shall remain unchanged and are hereby ratified and reaffirmed as of the date hereof and shall remain in full force and effect.
6. Binding Effect. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns under the Easement.
7. Counterparts. This Amendment may be executed in counterparts and in facsimile or by electronic copy, and such counterparts together shall constitute but one original of the Amendment. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.

[REMAINDER OF PAGE BLANK; SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Seller and Grantee have executed this Amendment as of the day and year first above written.

GRANTOR:

By: James Evans Wilson
James Evans Wilson

Spousal Consent:

By: Leslie Anne Wilson
Leslie Anne Wilson

Commonwealth of Kentucky)
COUNTY OF Harrison) SS.

The foregoing instrument was acknowledged and sworn to before me this 06 day of June, 2021, by James Evans Wilson and Leslie Anne Wilson, husband and wife.

My commission expires: 1-15-2023

Jesse P. Melcher

Notary Public

Print Name: Jesse P. Melcher

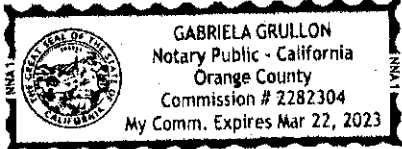
CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of ORANGE }
On JUNE 29th, 2021 before me, GABRIELA GRULLON, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer
personally appeared JAM ATTARI
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document:
Document Date: Number of Pages:
Signer(s) Other Than Named Above:
Capacity(ies) Claimed by Signer(s)
Signer's Name:
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator
[] Other:
Signer is Representing:

Prepared by:

Nicole Nordquist
BayWa r.e. Solar Projects LLC
18575 Jamoree Road, Suite 850
Irvine, CA 9612



Signature

EXHIBIT A-1

Premises

LEGAL DESCRIPTION OF THE TOTAL PROPERTY

Parcel ID: 052-0000-039-00-000

Sub-Tract I:

Beginning at a corner to Shropshire and McClure, thence 89 W 53.20 poles to a corner to McClure; thence S 88 ½ E 34 poles to corner to same; thence N ¾ E 32.60 to corner to same and McDaniel; thence S 89 ½ E 20.50 to a hackberry; thence N 2 ¾ E 134 poles to East of center of dirt road; thence with same S 1 ¾ E 81.26 poles to a stone in same; thence S 87 ½ W 135.40 poles to a stone 28 feet North of a Walnut stump, thence; S 2 W 62 ½ poles to the beginning, containing 90 acres.

Sub-Tract II:

A certain tract or parcel of land lying in Harrison County, Kentucky, on waters of Silas Creek, and bounded as follows:

BEGINNING at a post corner to the lands of J. Milton Allen and in Vesta Allen's line; thence N. 89'00 W. 16.56 chains to a stake corner to said Vesta Allen and in J. H. Shropshire line; thence with Shropshire two lines S 22-15 W. 13.51 chains to a post 51.55 W. 8.11 chains to post; thence S. 86.31 E. 10.51 chains to post corner to said J. Milton Allen; thence with three line of same N. 3.45 E. 8.16 chains to post S. 86.30 E. 5.13 chains to a post N. 4.55 E. 14.23 chains to the beginning containing Thirty One & 12/100 acres.

Sub-Tract III:

Lying and being on the waters of Silas Creek in Harrison County, Kentucky, Beginning in the center of the turnpike corner to Lula D. Allen; thence N. 82 ½ W. 5.58 chains; N. 70 W. 6.29 chains to a point in the center of the pike corner to Sparks; thence N. 3 E. 15.83 chains; N. 3 ½ E. 14.52 chains to a corner to Milton Allen; thence S. 87 ½ E. 12.12 chains to a fence post corner to Lula Allen; thence S. 4 ½ W. 32.82 chains to the beginning, containing 38 acres.

Sub-Tract IV:

That tract of land, situated on the waters of Silas Creek, in Harrison County, Kentucky, described and bounded as follows:

Beginning at a stone corner to B. R. Allen, thence N. 85 E. 83 poles to a stone corner to said Allen in J. W. Lucas's line; thence S. 2 W. 26.30 poles to a stone corner to Lucas; thence S. 6 ¾ W. 22.28 poles to a stone corner to Anna Lucas; thence S. 89 W. 15.60 poles to a stone corner to same; thence S. 2 ¾ W. 85.72 poles to a stone corner to same; thence S. 89 W. 64.60 poles to a stone corner to same; thence N. 1 E. 42.20 poles to a stone corner to same; thence N. 88 W. 88.12 poles to the middle of a dirt road; thence with said dirt road N. 1 ½ E. 42.14 poles; thence N. 1 E. 25 poles to a stone in the road, corner to B. R. Allen; thence S. 88 ½ E. 89.20 poles to a stone corner to same; thence N. 12 ½ E. 16.32 poles to the beginning containing 96 acres and 20 poles.

Sub-Tract V:

BEGINNING in center of turnpike, corner to Milton Allen; thence with said pike S. 3 ½ W. 10.03 chains; S. 5 ¼ W. 26.17 chains to a point in the center of the Leesburg and Silas Church Pike; thence with said pike N. 78 W. 8.88 chains to a point in the center of said pike corner to Ella H. Allen; thence N. 7 ¾ E. 12 chains to a stone corner to Ella H. Allen, and continued the same course 22 chains, 34 chains in all, to the line of Milton Allen; thence S. 87 ½ E. 7.03 chains to the beginning, containing 28 acres.

Being the same property devised to Katherine Allen Wilson, a one-half (1/2) undivided interest, and James Allen Wilson, a one-half (1/2) undivided interest, by will of Dorotha Ross Wilson, as recorded in

Will Book HH, at Page 834, in the Office of the Harrison County Clerk. Dorothea Ross Wilson having acquired interest in the property by virtue of the passing of Elizabeth C. Evans evidenced by the Affidavit of Descent recorded in Deed Book 305, Page 76, and the Will of J. Milton Allen recorded in Will Book T, Page 39, both of the Harrison County, Kentucky Clerk's Office. J. Milton Allen (also known as Milton Allen) acquired title to the property by deed dated September 15, 1914, recorded in Deed Book 79, Page 66; deed dated March 1, 1919, recorded in Deed Book 84, Page 224; deed dated October 6, 1925, recorded in Deed Book 91, Page 294; deed of the Master Commissioner, dated March 25, 1935, recorded in Deed Book 98, Page 228; and deed dated October 24, 1955, recorded in Deed Book 118, Page 302, all of the Harrison County, Kentucky Clerk's Office.

Exhibit A-2

Legal Description of the Easement Area

ALL That certain tract or parcel of land, lying and being located in Harrison County, Kentucky and situated on the north side of Silas Pike, and being more particularly described as follows:

Commencing at an iron pin set, a 1/2-inch rebar, on the northerly right-of-way line of Silas Pike at the intersection of the northerly right-of-way line of Silas Pike and the centerline of Allen Pike, said iron pin also being a corner to James Evans & Katherine Allen Wilson (Will Book HH, Page 834, having the State Plane coordinates of Northing: 285176.4416'; Easting: 1599904.5676';

THENCE along the said centerline of Allen Pike North 04°50'09" East, a distance of 569.22 feet to a point;

THENCE continuing along the said centerline North 05°38'21" East, a distance of 1078.21 feet to a point;

THENCE continuing along the said centerline North 04°33'48" East, a distance of 364.57 feet to a point;

THENCE continuing along the said centerline North 04°21'56" East, a distance of 377.08 feet to a point;

THENCE continuing along the said centerline North 03°57'30" East, a distance of 683.08 feet to a point;

THENCE continuing along the said centerline North 03°55'20" East, a distance of 129.42 feet to the POINT OF BEGINNING, having the State Plane coordinates of Northing: 288366.5866 Easting: 1600172.2160;

THENCE leaving the said centerline proceed South 76°19'16" West, a distance of 570.41 feet to a point;

THENCE North 23°23'07" West, a distance of 149.50 feet to a point;

THENCE North 77°52'27" East, a distance of 50.98 feet to a point;

THENCE South 23°23'07" East, a distance of 97.38 feet to a point;

THENCE North 76°19'16" East, a distance of 544.10 feet to a point on the centerline of Allen Pike;

THENCE along the said centerline of Allen Pike South 03°55'20" West, a distance of 52.46 feet to the POINT OF BEGINNING.

Said tract or parcel of land containing 34,035 Square Feet or 0.781 Acres, more or less.

State of Kentucky, County of Harrison

I, Linda S. Barnes, Clerk of Harrison County, do hereby certify that the foregoing Agreement was on the 30th day of June 2021; at 3:10 P.M.; lodged in my office certified as above for record; whereupon, the same and this certificate are now duly recorded.

PREPARED BY AND AFTER
RECORDING RETURN TO:

Given under my hand this the 1st day of July 2021
Linda S. Barnes Clerk, By: Linda S. Barnes D.C.

LODGED FOR RECORD
HARRISON COUNTY CLERK

JUN 30 2021

TIME 3:10 pm
LINDA S. BARNES LSB
CLERK HARRISON CO.

Bluebird Solar LLC
c/o BayWa r.e. Development LLC
18575 Jamboree Road, Suite 850
Irvine, CA 92612
Attn: SVP, General Counsel

(space above this line for recorder's use)

TRANSMISSION, COMMUNICATIONS AND ACCESS EASEMENT AGREEMENT

THIS TRANSMISSION AND COMMUNICATIONS EASEMENT AGREEMENT (this "Agreement") is made, dated and effective as of March 4, 2021 (the "Effective Date"), between James Evans Wilson (Address: 620 Allen Pike, Cynthia, KY 41031) and Katherine Allen Wilson (Address: 325 Colony Blvd., Lexington, KY 40502) (together with its successors, assigns and heirs, "Grantor"), and Bluebird Solar LLC, a Kentucky limited liability company (Address: 18575 Jamboree Rd. Ste 850, Irvine, CA 92612) (together with its transferees, successors, and assigns, collectively, "Grantee"), and in connection herewith, Grantor and Grantee agree, covenant and contract as set forth in this Agreement. Grantor and Grantee are sometimes referred to in this Agreement as a "Party" or collectively as the "Parties."

RECITALS

- A. Grantor owns certain real property located in Harrison County, State of Kentucky, more particularly described on Exhibit A-1 attached hereto and by this reference made a part hereof (the "Property").
- B. Grantee is developing a utility-scale solar energy generating facility, and in connection therewith, desires to obtain certain easements and related rights on, under, over, and across the Property (as initially described and depicted on Exhibit A-2 attached hereto and by this reference made a part hereof, which shall be subject to update pursuant to Section 2 hereof), and Grantor desires to grant such easement and rights, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual obligations and covenants of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties hereto agree as follows:

1. Grant of Easement.

- (a) Transmission and Communications. Grantor hereby grants to Grantee a non-exclusive easement over, under or across the Property, as further described herein and depicted in Exhibit A-2 (the "Transmission Easement") for the installation, construction, use, operation, maintenance, repair, replacement, relocation, reinstallation, improvement, utilization, removal and inspection of underground electrical transmission facilities, including, without limitation, one or more lines of footings, foundations and other structures, multiple circuits, guys, wires, crossarms, cables, conduits, circuit breakers and transformers and appurtenances thereto, communication lines, interconnection and/or switching facilities, and other related or associated facilities and fixtures, equipment and improvements (collectively, "Transmission Facilities"). The areas encompassed by the Transmission Easement ("Transmission Facilities Easement Area") are described or depicted in Exhibit A-2 attached hereto. In connection with the foregoing, Grantee may enter the

Transmission Facilities Easement Area (and shall have a right-of-way over Grantor's adjoining Property for such purpose) in order to perform surveys, soil sampling, archeological assessments, and tests and investigations including, without limitation, environmental investigations and any other tests as may be deemed necessary by Grantee. Grantor understands that requirements applicable to the siting and construction of the Transmission Facilities may require that adjustments be made to the legal descriptions of the Transmission Facilities Easement Area contained in this Agreement, as initially executed and delivered, and Grantor agrees to accommodate adjustments to such legal descriptions to the extent that any such revisions do not materially increase the extent of, or depart significantly from, the original location of the Transmission Facilities Easement Area, and to execute an amendment to this Agreement pursuant to Section 2 hereof.

- (b) Grading. Grantor hereby grants, conveys and transfers to Grantee a non-exclusive easement wherein Grantee may, but is not required to, grade, cut and fill the surface of the Property and maintain slopes created thereby, for the purposes set forth herein (the "**Grading Easement**"); provided however, for the avoidance of doubt, Grantee may not remove any trees in the Transmission Facilities Easement Area. In the event that Grantor damages or removes any trees from the Transmission Facilities Area without the prior written consent of Grantor, Grantee shall to Grantor the fair market value of the trees removed or damaged as determined by a method acceptable to Grantee payable within sixty (60) days of removal or damage.
- (c) Access. Grantor shall have the right of pedestrian, cattle, equipment, and vehicular ingress and egress at all times upon and across the Easement Area, and to and from the same upon and across the Property (the "**Access Easement**", and together with the Transmission Easement and the Grading Easement, collectively, the "Easements"). The area encompassed by the Access Easement (the "**Access Easement Area**", together with the Transmission Easement Area, collectively the "**Easement Area**") are described or depicted in Exhibit A-2 attached hereto. GRANTEE shall also have the right of ingress and egress over existing and future roads across the Easement Area for the purpose of obtaining access. In the event that access is not reasonably available over existing roads, Grantee shall have the right to build new roads within the Easement Area in order to obtain access. Grantee shall have the right to use such portion of the property along and adjacent to the Easement Area as may be reasonably necessary in connection with the construction, reconstruction, repair or other purposes stated above, or any part thereof.

2. Easement Area. Within twelve (12) months from the Effective Date, which may be extended with Grantor's consent which shall not be unreasonably withheld, Grantee shall determine the specific location of the Easement Area subject to the Transmission Easement. Grantee shall engage a licensed surveyor, at Grantee's sole cost, to prepare the legal description and depiction of the Easement Area. Upon surveyor's completion of the legal description and depiction of the Easement Area, Grantee may unilaterally (i) update this Agreement by adding the specific legal description and depiction of the Easement Area as Exhibit A-2 and (ii) execute and record an instrument which adopts the final Easement Area with the revised Exhibit A-2; provided, however, upon request by Grantee, Grantor shall also execute such recordable instrument.

3. Term and Termination.

- (a) Term. The term of this Agreement shall commence on the Effective Date and shall expire on the date that is forty-five (45) years after the Effective Date, unless earlier terminated (the "**Term**").
- (b) Grantee Termination. Notwithstanding anything to the contrary set forth in this Agreement, Grantee shall have the right at any time to terminate this Agreement and all of the rights, duties and obligations of the Parties under this Agreement effective upon thirty (30) days' prior written notice

given by Grantee to Grantor.

- (c) Removal Upon Termination. Upon termination of this Agreement, at Grantor's request, Grantee shall remove the Transmission Facilities and if necessary, any access roads installed by Grantee, within the Easement Area to a depth of two feet (2') and restore the Easement Area to a condition reasonably similar as existed prior to installation of the Transmission Facilities, reasonable wear and tear excepted. Grantee shall have a continuing right of way to enter and access the Easement Area for the purposes described in this Section 3(c). In the event Grantee fails to remove the Transmission Facilities within twelve (12) months after termination of this Agreement, Grantor may have the Transmission Facilities removed at Grantee's sole cost and expense (to the extent actually documented), net of any amounts reasonably recoverable by Grantor with respect to the salvage value of the Transmission Facilities.
4. Payments. In consideration of the rights granted in this Agreement, Grantee shall pay to Grantor those amounts set forth in the Payment Addendum attached hereto as Exhibit B and incorporated herein by reference. The Parties agree that Exhibit B shall not be recorded. Notwithstanding anything in this Agreement to the contrary, Grantee shall have no obligation to make any payment to Grantor otherwise required under this Agreement until Grantor has returned to Grantee a completed Internal Revenue Service Form W-9.
5. Grantor's Representations, Warranties and Covenants. Grantor hereby represents, warrants and covenants as follows:
- (a) Grantor's Authority. Grantor is the sole owner of the Property, has good and indefeasible title in fee simple to the Property, and has the authority to execute this Agreement and to grant Grantee the rights granted in this Agreement. As long as Grantee observes the terms and conditions of this Agreement, Grantee shall have the right to quietly and peaceably hold, possess and enjoy all of the rights granted by this Agreement without hindrance or interruption by Grantor or any person lawfully or equitably claiming by, through or under Grantor, or as Grantor's successor(s) in interest.
- (b) Hazardous Material. As of the Effective Date, neither the Property nor Grantor is or has been in violation of any federal, state or local environmental health or safety laws, statutes, ordinances, rules, regulations or requirements (collectively, "**Environmental Laws**"), and Grantor has not received any notice or other communication from any governmental authority alleging that the Property is in violation of any Environmental Law. "**Hazardous Materials**" means (i) any substance, the presence of which requires investigation, remediation, or other response or corrective action under any Environmental Law, or (ii) any substance which is or hereafter becomes defined as a hazardous waste, hazardous substance, extremely hazardous substance, hazardous material, hazardous matter, hazardous chemical, toxic substance, toxic chemical, pollutant or contaminant, or other similar term, in or pursuant to any Environmental Law, or (iii) any asbestos or asbestos-containing material, PCBs or equipment or articles containing PCBs, petroleum, diesel fuel, gasoline or other petroleum hydrocarbons. Grantor warrants further that no underground storage tanks and no Hazardous Materials are or were located on the Property. Grantor shall not violate any Environmental Laws relating to the Property.
- (c) No Interference. Grantor shall not, nor authorize any other party to, interfere with, Grantee's use of the Property for the purposes described in this Agreement, or Grantee's rights under this Agreement. Without limiting the foregoing, Grantor shall not, and shall not allow any third party to, within the Easement Area: erect or install any buildings, structures, antenna, or other improvements; place or store flammable materials; plant trees; place water, sewer or drainage facilities; or alter the elevation of the existing ground surface.

- (d) Cooperation. Grantor shall assist and cooperate with Grantee, all at no out of pocket expense to Grantor, in applying for, complying with or obtaining any land use permits and approvals or any other permits, licenses, approvals or consents required for the financing, construction, installation, replacement, relocation, maintenance, repair, operation or removal of the Transmission Facilities. Grantor shall take no actions in opposition to any of the foregoing, directly or indirectly.
- (e) Liens. Except as disclosed in the official real property records of Harrison County, or as disclosed in writing by Grantor to Grantee prior to the Effective Date, Grantor's fee simple title to the Property is free and clear of all liens, encumbrances, easements, leases, mortgages, deeds of trust, security interests, claims, disputes, or other third-party rights or options (collectively, "**Liens**"). Grantee shall be entitled to obtain, and Grantor shall cooperate with Grantee in obtaining, a subordination agreement, non-disturbance agreement or other appropriate agreement from any party holding a Lien that might interfere with Grantee's rights under this Agreement, at no out-of-pocket expense to Grantor.
- (f) Taxes and Assessments. Grantor shall pay all taxes, assessments, and other governmental charges that during the Term of this Agreement shall be levied, assessed or imposed upon, or arise in connection with, the Property.

6. **Grantee's Representations, Warranties and Covenants**. Grantee hereby represents, warrants and covenants as follows:

- (a) Grantee's Authority. Grantee has the authority to execute this Agreement. Each person signing this Agreement on behalf of Grantee is authorized to do so.
- (b) Restoration. Grantee shall not any damage any of Grantor's improvements when Grantee constructs the Transmission Facilities. In the event Grantee's construction activities on the Property damage any of Grantor's property or improvements on the Property, Grantee shall be obligated to either (i) restore the improvement to substantially the same condition as it was prior to being damaged by Grantee or (ii) compensate Grantor in an amount that reasonably reflects the cost to repair the damage caused by Grantee. Upon completion of construction of the Transmission Facilities and any access route, Grantee shall restore the portion(s) of the Property outside the Easement Area disturbed by Grantee to a condition reasonably similar to its condition prior to the commencement of such work, reasonable wear and tear excepted.

7. **Default; Remedies**. If a Party (the "**Defaulting Party**") fails to perform an obligation under this Agreement (an "**Event of Default**"), such Defaulting Party shall not be in breach of the terms of this Agreement if, (a) in the case of the failure to pay when due any amounts payable under this Agreement (a "**Monetary Default**"), the Defaulting Party pays the past due amount within thirty (30) days after receiving written notice of the Event of Default (a "**Notice of Default**") from the other Party (the "**Non-Defaulting Party**"), or (b) in the case of an Event of Default other than a Monetary Default (a "**Non-Monetary Default**"), the Event of Default is cured within thirty (30) days after receiving a Notice of Default; provided, that if the nature of the Non-Monetary Default requires, in the exercise of commercially reasonable diligence, more than thirty (30) days to cure then the Defaulting Party shall not be in default as long as it commences performance of the cure within thirty (30) days and thereafter continuously pursues such cure with commercially reasonable diligence. Should an Event of Default remain uncured by the Defaulting Party, the Non-Defaulting Party shall have and shall be entitled at its option and without further notice, but subject to the limitations set forth in the last sentence of this Section 7, to exercise any remedy available at law or equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such default (including, without limitation, the cost

of obtaining alternative easements and removing and reinstalling the Transmission Facilities); provided, however, that damages shall in all cases exclude punitive, consequential, special, exemplary, speculative or indirect damages. Notwithstanding any rights or remedies which Grantor may otherwise have hereunder, at law or in equity, Grantor shall not (and hereby waives the right to) at any time during the term of this Agreement, commence, prosecute or participate in any action or proceeding in which termination, cancellation, rescission or reformation of this Agreement is sought or could be awarded as a remedy; and Grantor shall be limited to seeking and obtaining damages or specific performance in the event of any failure by Grantee to perform its obligations hereunder.

8. **Assignment.** Grantee shall have the right, without obtaining the consent of Grantor, to do any of the following with respect to all or any portion of this Agreement, the Easements, the Easement Area or the Transmission Facilities: encumber, hypothecate, mortgage, pledge, or otherwise finance the same in favor of the holder of any mortgage, deed of trust or other security interest in Grantee's rights under this Agreement and the Transmission Facilities (each an "**Easement Mortgagee**"); grant co-easements, separate easements, sub-easements, licenses or similar rights (however denominated) to one or more persons or entities (each an "**Assignee**"); grant to one or more Assignees joint rights of ownership in and/or use of the Transmission Facilities and the Easements; or sell, convey, lease, assign, mortgage, encumber, hypothecate or transfer to one or more Assignees or Easement Mortgagees any or all right or interest of Grantee in all or any portion of this Agreement, the Easement, the Easement Area or the Transmission Facilities. Grantee shall promptly notify Grantor in writing of any such assignment, mortgage, pledge or hypothecation and the name and address of each Assignee or Easement Mortgagee. Upon Grantee's assignment of its entire interest under this Agreement as to all or any portion of an Easement, or as may otherwise be provided in the applicable grant, sale, lease, conveyance or assignment document, Grantor shall recognize the Assignee as Grantee's proper successor, the Assignee shall have all of the assigned rights, benefits and obligations of Grantee under and pursuant to this Agreement. Grantee shall remain jointly and severally liable with the Assignee for all obligations under this Agreement unless such Assignee agrees in writing to assume all of Grantee's obligations hereunder, in which case Grantee shall be released from liability for obligations accruing on or after the date of such assumption. Grantor shall notify Grantee in writing of any sale, assignment, mortgage or transfer of any of Grantor's interest in the Property, or any part thereof. Until Grantee receives such notice, Grantee shall have no duty to any successor Grantor.
9. **Covenants for Easement Mortgagees' Benefit.** Upon any assignment or transfer of Grantee's interest in this Agreement or the Easements to an Easement Mortgagee (made pursuant to Section 8 hereof), the Parties expressly agree between themselves and for the benefit of any Easement Mortgagee as follows:
 - (a) They will not amend, modify or cancel, terminate, surrender or release this Agreement without the prior written consent of each Easement Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed.
 - (b) Grantor shall provide a copy of any Notice of Default provided to Grantee hereunder to each Easement Mortgagee at the notice address provided by Grantee pursuant to Section 8.
 - (c) Any Easement Mortgagee shall have the same period after delivery of Notice of Default to the Easement Mortgagee to remedy the Event of Default, or cause the same to be remedied, as is given to Grantee after delivery of Notice of Default pursuant to Section 7 hereof, plus, in each instance, sixty (60) additional days; provided that such 60-day period shall be extended for a Non-Monetary Default by the time reasonably required to complete such cure, including the time required for the Easement Mortgagee to perfect its right to cure such Non-Monetary Default by obtaining possession of Grantee's interest in the Easements (including possession by a receiver) or by

instituting and consummating foreclosure proceedings, provided the Easement Mortgagee acts with reasonable diligence. The Easement Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing Events of Default. Grantor expressly consents to such substitution, agrees to accept such performance, and authorizes the Easement Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Easement Area to complete such performance with all the rights, privileges and obligations of the original Grantee hereunder. Grantor shall not have the right to terminate this Agreement prior to expiration of the cure periods available to an Easement Mortgagee as set forth above. Notwithstanding anything to the contrary contained herein, until such Easement Mortgagee obtains the interests of Grantee in this Agreement (whether pursuant to foreclosure of the Easement Mortgagee's lien or otherwise), no Easement Mortgagee shall have the obligation to cure any Event of Default of Grantee and no Easement Mortgagee shall be deemed an Assignee or transferee of this Agreement so as to require that such Easement Mortgagee assume the performance of any of the covenants or agreements on the part of Grantee to be performed hereunder (except as set forth in Section 9(d) below).

- (d) During any period of possession of any Easement by an Easement Mortgagee (or a receiver requested by such Easement Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by an Easement Mortgagee, the Easement Mortgagee shall pay or cause to be paid all monetary charges payable by Grantee hereunder (all as set forth in Section 4 above) which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Grantee's interest in an Easement or this Agreement by the Easement Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Easement Mortgagee or party acquiring title to Grantee's interest shall, as promptly as reasonably possible, commence the cure of all Events of Default hereunder and thereafter diligently process such cure to completion, whereupon Grantor's right to terminate this Agreement based upon such Events of Default shall be deemed waived.
- (e) In the case of termination of this Agreement as a result of any Event of Default, foreclosure, or the termination, rejection or disaffirmance of this Agreement due to bankruptcy, insolvency or appointment of a receiver in bankruptcy for Grantee, Grantor shall give prompt notice to each Easement Mortgagee. Grantor shall, upon written request of an Easement Mortgagee, so long as made within forty-five (45) days after notice from Grantor to such Easement Mortgagee, enter into a new easement agreement with such Easement Mortgagee, or its designee, within twenty (20) days after the receipt of such request. Such new easement agreement shall be effective as of the Effective Date, and upon the same terms, covenants, conditions and agreements as contained in this Agreement. Coincident with the entry of a new easement agreement as provided herein, Grantor shall reissue to such Easement Mortgagee any easements, licenses or other interests respecting the Property which any Grantor may have granted to Grantee in connection with this Agreement and the transactions contemplated thereby. Upon the execution of any such new easement agreement, the Easement Mortgagee shall (i) pay Grantor any amounts which are due to Grantor from Grantee, (ii) pay Grantor any and all amounts which would have been due under this Agreement (had this Agreement not been terminated) from the date of the termination of this Agreement to the date of the new easement agreement, and (iii) agree in writing to perform or cause to be performed all of the other covenants and agreements set forth in this Agreement to be performed by Grantee to the extent that Grantee failed to perform the same prior to the execution and delivery of the new easement agreement. Grantor hereby agrees with and for the benefit of each Easement Mortgagee that the provisions of this Section 9(e) shall survive termination, rejection or disaffirmation of this Agreement whether by default or as a result of the bankruptcy or insolvency of Grantee and shall

continue in full force and effect thereafter to the same extent as if this Section 9(e) were a separate and independent instrument.

- (f) If more than one Easement Mortgagee makes a written request for a new easement agreement pursuant hereto, the new easement agreement shall be delivered to the Easement Mortgagee requesting such new easement agreement whose interest is prior in lien, and the written request of any other Easement Mortgagee whose lien is subordinate shall be void and of no further force or effect. Grantor shall not be responsible for determining the relative priorities of Easement Mortgagees' interests and shall not be liable for any damage caused to Grantee or any Easement Mortgagee from entering into or refusing to enter into two or more new easement agreements.
 - (g) Grantor shall within ten (10) days of any request execute and deliver to Grantee or its Easement Mortgagee such estoppel certificates (certifying as to such matters as Grantee or its Easement Mortgagee may reasonably request, including without limitation that no Event of Default then exists under this Agreement, if such be the case) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Grantee, any assignee or Easement Mortgagee may reasonably request from time to time. If an estoppel certificate is requested but not timely provided as required by this Section 9(g), all matters requested for certification in such estoppel certificate shall conclusively be deemed true and accurate for all purposes and may be conclusively relied upon by the requesting party (and, if applicable, such requesting party's lenders or potential assignees). The failure of Grantor to deliver such statement within such time shall be conclusive evidence upon Grantor that this Agreement is in full force and effect and has not been modified, and there are no uncured Events of Default by Grantee under this Agreement.
 - (h) No payment made to Grantor by an Easement Mortgagee shall constitute an agreement that such payment was, in fact, properly due under the terms of this Agreement; and an Easement Mortgagee, having made any payment to Grantor pursuant to Grantor's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.
 - (i) There shall be no merger of this Agreement, or of the easement interest created by this Agreement, with the fee estate in the Property by reason of the fact that this Agreement or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property and all persons (including an Easement Mortgagee) having an interest in this Agreement or in the interest of Grantor and/or Grantee shall join in a written instrument effecting such merger and shall duly record the same.
 - (j) Grantor shall deliver any and all notices given to Grantee hereunder simultaneously to any Easement Mortgagee at the address of such Easement Mortgagee provided to Grantor. No such notice shall be effective as to such Easement Mortgagee unless such delivery has occurred.
10. **Non-Disturbance Agreements.** If Grantor's interest in the Property is encumbered by a Lien, Grantor shall use commercially reasonable efforts, provided Grantor does not incur any financial cost, to deliver to Grantee a non-disturbance agreement executed by such Lien holder, which agreement shall be in form and substance reasonably acceptable to such Lien holder and Grantee.
11. **Insurance.** Grantee agrees at its own expense to have a general commercial liability insurance policy with a coverage limit of at least One Million Dollars (\$1,000,000.00) in effect during the Term to cover any personal injuries or accidents that may occur as a direct result of Grantee's activities on the Easement Area (including any activities of any of Grantee's employees, consultants, contractors or other

agents) and prior to commencing construction on the Easement Area will add Grantor as an additional insured on such policy. Grantee shall provide Grantor a certificate of insurance prior to commencing construction on the Easements and thereafter as renewed, evidencing that Grantor has been added as an additional insured on said policy.

12. **Indemnity.**

- (a) **Indemnity by Grantee.** Grantee shall defend, protect, indemnify, and hold harmless Grantor from and against any and all damages, fines, claims, liabilities, costs, expenses, obligations, or losses due to personal injury or property damage caused directly or indirectly by the breach by Grantee of any of its obligations under this Agreement or by the operation of the Transmission Facilities or other activities of Grantee, its agents, contractors, employees, licensees and permittees on or about the Easement Area; provided however that such liability or loss is not due to any fraud or acts, omissions, negligence or willful misconduct of Grantor or its agents, contractors, employees, guests, licensees or permittees, or from the breach by Grantor of its obligations hereunder. Grantee's indemnification and defense obligations under this Agreement shall not include or apply to loss of rent or profits or consequential, exemplary, punitive, or special damages, all of which are hereby expressly waived by Grantor.
- (b) **Indemnity by Grantor.** Grantor shall defend, protect, indemnify, and hold harmless Grantee from and against any and all damages, fines, claims, liabilities, costs, expenses, obligations, or losses due to personal injury or property damage caused directly or indirectly by the breach by Grantor of any of its obligations under this Agreement or use of the Easement Area by Grantor; provided however that such liability or loss is not due to any fraud or acts, omissions, negligence or willful misconduct of Grantee or its agents, contractors, employees, guests, licensees or permittees, or from the breach by Grantee of its obligations. Grantor's indemnification and defense obligations under this Agreement shall not include or apply to loss of rent or profits or consequential, exemplary, punitive, or special damages, all of which are hereby expressly waived by Grantee.

13. **Minerals.** This Section 13 shall apply only if Grantor owns any mineral interests within the Easement Area. Grantee does not acquire by this Agreement any such interests, but expressly takes subject thereto, and Grantor reserves and shall retain all oil, gas, and other minerals in, on and under the Easement Area; provided, however, that Grantor shall not be permitted to drill or operate equipment for the production or development of minerals on the surface of the Easement Area, or so near the boundary thereof as to threaten the subjacent or lateral support for the same, but will be permitted to extract the oil and other minerals from and under the Property by directional drilling and other means, so long as such activities are 500 feet beneath the surface and do not damage, destroy, injure, or cause the removal of the Transmission Facilities and/or interfere with Grantee's use of the Easements for the purposes permitted hereunder.

14. **Miscellaneous.**

- (a) **Confidentiality.** To the fullest extent allowed by law, Grantor shall maintain in the strictest confidence, for the sole benefit of Grantee, all information pertaining to the financial terms of or payments under this Agreement, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Grantor or its employees or agents or (ii) was already known to Grantor at the time of disclosure and that Grantor is free to use or disclose without breach of any obligation to any person or entity. To the fullest extent permitted by law, Grantor shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Grantor may provide information as required or appropriate to attorneys, accountants, lenders, or third parties who may be assisting Grantor or with whom Grantor may be negotiating in

connection with the Property, Grantor's financial or other planning, or as may be required pursuant to lawful process, subpoena or court order, or as necessary to enforce this Agreement, in each case so long as Grantee advises the person receiving such information of the confidentiality thereof and obtains the agreement of said person not to disclose such information.

- (b) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon Grantor and Grantee and, to the extent provided in any assignment or other transfer under Section 8 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Property.
- (c) Recording of Agreement. Grantee shall have the right to record this Agreement, without Exhibit B, in the official real property records of Harrison County. Once this Agreement is updated with Exhibit A-2, Grantee shall have the right to record, without Exhibit B, the instrument which adopts the final Easement Area. In the event this Agreement terminates, Grantee shall execute and record, within thirty (30) days of the effective date of termination, a notice of termination.
- (d) Notices. All notices which either Party hereto may be required or desire to serve upon the other Party shall be in writing and shall be served upon such other Party (i) by personal service upon such other Party, whereupon service shall be deemed complete; (ii) by Federal Express or other nationally-recognized overnight delivery service, whereupon service shall be deemed complete the next business day; or (iii) by mailing a copy thereof by certified or registered mail, with return receipt requested, whereupon service shall be deemed complete on the day actual delivery is made, as shown by the certification receipt, or at the expiration of the fourth (4th) business day after the date of mailing, whichever first occurs.

If to Grantor:

James Wilson

620 Allen Pike
Cynthiana KY 41031

Katherine Wilson

325 Colony Blvd.
Lexington KY 40502

If to Grantee:

Attn: SVP, General Counsel
c/o BayWa r.e. Development LLC
18575 Jamboree Road, Suite 850
Irvine, CA 92612

Any Party may change its address for purposes of this Section 10(d) by giving written notice of such change to the other parties in the manner provided in this Section 10(d). If Grantee has provided notice to Grantor of an Easement Mortgagee and Easement Mortgagee's address, then all notices to Grantee hereunder shall simultaneously be delivered to Easement Mortgagee.

- (e) Entire Agreement; Amendments. This Agreement constitutes the entire agreement between Grantor and Grantee respecting its subject matter. Any agreement, understanding or representation respecting the Property, the Easements, or any other matter referenced in this Agreement not expressly set forth in this Agreement or a subsequent writing signed by both Parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. Grantor shall cooperate with Grantee in amending this Agreement from time to time to include any

provision that may be reasonably requested by Grantee or an Easement Mortgagee for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of, or satisfying the request of, any Assignee or an Easement Mortgagee.

- (f) Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Kentucky.
- (g) Arbitration of Disputes. Any dispute, controversy or claim (“**Dispute**”) arising out of or in relation to this Agreement, including the validity, invalidity, breach or termination thereof shall be resolved in accordance with the procedure in this Section 10(g). The Party raising any Dispute shall first serve written notification of the Dispute to the other Party (a “**Dispute Notice**”). Within fifteen (15) days of the service of a Dispute Notice one (1) director or other senior representative of each Party shall meet to seek to resolve the Dispute. Any Dispute not resolved within fifteen (15) days of service of the Dispute Notice for any reason (including a Dispute that has not been resolved because no meeting has taken place) may be referred by either Party to binding arbitration administered by the American Arbitration Association (“**AAA**”) under its Commercial Arbitration Rules (“**AAA Rules**”). To the extent possible in light of the nature of the Dispute, the arbitrators shall (i) apply a “baseball” or “last offer” arbitration procedure, whereby the arbitrators shall request each Party to submit to the arbitrator and exchange with each other, in accordance with a procedure to be established by the arbitrators, its final position on the award that it believes it is entitled to obtain; and (ii) the arbitrators shall award only one or the other of the two positions submitted by the Parties. The seat, or legal place, of arbitration shall be Louisville, Kentucky, United States. There shall be one (1) independent arbitrator selected by AAA using a list method (see E-4 of the AAA Rules). The language of the arbitration shall be English. The arbitrators shall not (A) award any punitive or exemplary damages; or (B) award damages inconsistent with this Agreement, and the Parties irrevocably waive the right to collect any damages inconsistent with the foregoing. Without limit, nothing contained herein will be construed to permit the arbitrator or any court or any other forum to award punitive or exemplary damages. The Parties shall take all reasonable actions (including implementing an expedited discovery and hearing schedule) to seek to conclude the final hearing within sixty (60) days after the filing of the Demand for Arbitration with the AAA. The arbitral tribunal shall seek to issue the final Award within thirty (30) days of the conclusion of the final hearing. Judgment on the Award rendered by the arbitral tribunal may be entered by any court having jurisdiction thereof. Each Party will pay its legal fees and costs related to the arbitration (including witness and expert fees). Except as necessary in court proceedings to enforce the arbitration provisions in this Section 10(g) or an award rendered hereunder, to obtain interim relief, or as otherwise required by law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. Neither Party shall take any action to force a resolution of a Dispute by any judicial or similar process, except to the limited extent necessary to (X) obtain equitable or interim relief, including injunctive relief, to preserve the status quo, prevent irreparable harm arising from the violation of a Party’s rights regarding confidential information or intellectual property during the pendency of the resolution procedures set forth in this Section 10(g), (Y) enforce a final Award rendered in accordance with this Section 10(g) or (Z) to compel arbitration. The courts of the Commonwealth of Kentucky shall have jurisdiction to hear any such actions stated in (X) through (Z).
- (h) Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.
- (i) No Third-Party Beneficiaries. Nothing contained in this Agreement shall be deemed or construed by the Parties or by any third person to create a third-party beneficiary other than with respect to

the lenders, investors, successors and assigns of either of the Parties.

- (j) Headings. The headings of the sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part thereof.
- (k) Counterparts. This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts with the same effect as if all signatory parties had signed the same document, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.
- (l) Eminent Domain. If all or any portion of the Easement Area is taken by, or conveyed to, any governmental or quasi-governmental entity as a result of an eminent domain proceeding, then nothing herein shall affect the right of Grantee to receive from such governmental or quasi-governmental entity compensation or damages for any losses that it suffers as a result thereof. Both Grantor and Grantee shall have the right to pursue their respective claims for damages in connection with any eminent domain proceeding. In the event that the Easement Area or the purpose of the Easements is materially impacted by any eminent domain proceeding, Grantor shall relocate the Easement Area to a different location on the Property that is reasonably suitable to Grantee.
- (m) Joint Grantor. If one or more persons, partnerships, corporations, trusts or other entities execute this Agreement as Grantor or have an ownership interest in the Property from time to time, the duties, covenants and obligations of Grantor under this Agreement shall be the joint and several obligations of each such person, partnership, corporation, trust or other entity. All such persons, partnerships, corporations, trusts or other entities agree that they shall be solely responsible for allocating any payments made under this Agreement between themselves and that Grantee shall have no obligation to make any allocation.
- (n) No Dedication of Public Use. Nothing contained in this Agreement shall be deemed a gift or dedication of all or any portion of the Grantor Property for the general public or for any public use or purpose whatsoever.
- (o) Survival. The Parties' respective indemnification obligations under this Agreement shall survive the termination of this Agreement.
- (p) Easement in Gross. The Easements and other rights granted by Grantor in this Agreement are easements in gross, and the Easements and other rights granted to Grantee herein are personal to Grantee and its successors and assigns for the benefit of Grantee (and its successors and assigns), as owner of the Easements.
- (q) No Overburdening. Grantor hereby acknowledges and agrees that no use of or improvement to the Easements or any portion thereof for the purposes set forth in this Agreement, no transfer of all or any portion of the Easement Area, and no use or improvement of the Easement Area or any portion thereof for the purposes set forth in this Agreement resulting from any such transfer, shall, separately or in the aggregate, constitute an overburdening of the Easement Area.
- (r) Recitals & Exhibits. The Recitals above and the Exhibits attached hereto are incorporated herein by reference as if set forth in the body of this Agreement.
- (s) Ownership of Transmission Facilities. Grantee shall at all times retain all right, title and interest in and to the Transmission Facilities and shall have the right to remove them (or to allow them to be removed) from the Easement Area at any time. Grantor shall have no ownership interest in or to

any Transmission Facilities. Nothing in this Agreement shall be construed as requiring Grantee to install or operate the Transmission Facilities.

- (t) Solar Lease. Grantor and Grantee have entered into a separate Solar Ground Lease Agreement dated September 28, 2016 (the "Solar Lease") whereby Grantor has granted Grantee the rights to develop, build and operate solar facilities on the property under lease (the "Lease Property"). Nothing in this Agreement shall amend or modify the Solar Lease or change or amend the Lease Property.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement with the intent that this Agreement be effective as of the Effective Date.

GRANTOR:

By: James Evans Wilson
Name: James Evans Wilson

Spousal Consent (if any):

By: Leslie Anne Wilson
Name: Leslie Anne Wilson

By: Katherine Allen Wilson
Name: Katherine Allen Wilson

Spousal Consent (if any):

By: Wyman Rice
Name: WYMAN RICE

Commonwealth of Kentucky)SS.
COUNTY OF Harrison)

The foregoing instrument was acknowledged and sworn to before me this 4th day of March, 2020, by James Evans Wilson & Leslie Anne Wilson, married (and spouse, if any, or a single person).

My commission expires: 1-15-2023

Jesse P. Melcher
Notary Public

Print Name: Jesse P. Melcher



GRANTEE:

Bluebird Solar LLC,
a Kentucky limited liability company

By: [Signature]

Name: William Gulley

Title: Authorized Signatory

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____ before me, _____ personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Drafted By:
Baywa n.e. Solar Projects
18575 Jamboree Rd, Ste 850
Irvine CA 92612
By [Signature]
Nicole Nordquist

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange }

On February 17th, 2021 before me, Gabriela Grullon, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared William Gulley
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature Gabriela Grullon
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____

Partner – Limited General Partner – Limited General

Individual Attorney in Fact Individual Attorney in Fact

Trustee Guardian or Conservator Trustee Guardian or Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____

EXHIBIT A-1

Legal Description of the Property

Parcel ID: 052-0000-039-00-000

Sub-Tract I:

Beginning at a corner to Shropshire and McClure, thence 89 W 53.20 poles to a corner to McClure; thence S 88 ½ E 34 poles to corner to same; thence N ¼ E 32.60 to corner to same and McDaniel; thence S 89 ½ E 20.50 to a hackberry; thence N 2 ¾ E 134 poles to East of center of dirt road; thence with same S 1 ¾ E 81.26 poles to a stone in same; thence S 87 ½ W 135.40 poles to a stone 28 feet North of a Walnut stump, thence; S 2 W 62 ½ poles to the beginning, containing 90 acres.

Sub-Tract II:

A certain tract or parcel of land lying in Harrison County, Kentucky, on waters of Silas Creek, and bounded as follows:

BEGINNING at a post corner to the lands of J. Milton Allen and in Vesta Allen's line; thence N. 89'00 W. 16.56 chains to a stake corner to said Vesta Allen and in J. H. Shropshire line; thence with Shropshire two lines S 22-15 W. 13.51 chains to a post 51.55 W. 8.11 chains to post; thence S. 86.31 E. 10.51 chains to post corner to said J. Milton Allen; thence with three line of same N. 3.45 E. 8.16 chains to post S. 86.30 E. 5.13 chains to a post N. 4.55 E. 14.23 chains to the beginning containing Thirty One & 12/100 acres.

Sub-Tract III:

Lying and being on the waters of Silas Creek in Harrison County, Kentucky, Beginning in the center of the turnpike corner to Lula D. Allen; thence N. 82 ½ W. 5.58 chains; N. 70 W. 6.29 chains to a point in the center of the pike corner to Sparks; thence N. 3 E. 15.83 chains; N. 3 ½ E. 14.52 chains to a corner to Milton Allen; thence S. 87 ½ E. 12.12 chains to a fence post corner to Lula Allen; thence S. 4 ½ W. 32.82 chains to the beginning, containing 38 acres.

Sub-Tract IV:

That tract of land, situated on the waters of Silas Creek, in Harrison County, Kentucky, described and bounded as follows:

Beginning at a stone corner to B. R. Allen, thence N. 85 E. 83 poles to a stone corner to said Allen in J. W. Lucas's line; thence S. 2 W. 26.30 poles to a stone corner to Lucas; thence S. 6 ¾ W. 22.28 poles to a stone corner to Anna Lucas; thence S. 89 W. 15.60 poles to a stone corner to same; thence S. 2 ¾ W. 85.72 poles to a stone corner to same; thence S. 89 W. 64.60 poles to a stone corner to same; thence N. 1 E. 42.20 poles to a stone corner to same; thence N. 88 W. 88.12 poles to the middle of a dirt road; thence with said dirt road N. 1 ½ E. 42.14 poles; thence N. 1 E. 25 poles to a stone in the road, corner to B. R. Allen; thence S. 88 ½ E. 89.20 poles to a stone corner to same; thence N. 12 ½ E. 16.32 poles to the beginning containing 96 acres and 20 poles.

Sub-Tract V:

BEGINNING in center of turnpike, corner to Milton Allen; thence with said pike S. 3 ½ W. 10.03 chains; S. 5 ¼ W. 26.17 chains to a point in the center of the Leesburg and Silas Church Pike; thence with said pike N. 78 W. 8.88 chains to a point in the center of said pike corner to Ella H. Allen; thence N. 7 ¾ E. 12 chains to a stone corner to Ela H. Allen, and continued the same course 22 chains, 34 chains in all, to the line of Milton Allen; thence S. 87 ½ E. 7.03 chains to the beginning, containing 28 acres.

Being the same property devised to Katherine Allen Wilson, a one-half (1/2) undivided interest, and James Allen Wilson, a one-half (1/2) undivided interest, by will of Dorothea Ross Wilson, as recorded in Will Book HH, at Page 834, in the Office of the Harrison County Clerk. Dorothea Ross Wilson having acquired interest in the property by virtue of the passing of Elizabeth C. Evans evidenced by the Affidavit

of Descent recorded in Deed Book 305, Page 76, and the Will of J. Milton Allen recorded in Will Book T, Page 39, both of the Harrison County, Kentucky Clerk's Office. J. Milton Allen (also known as Milton Allen) acquired title to the property by deed dated September 15, 1914, recorded in Deed Book 79, Page 66; deed dated March 1, 1919, recorded in Deed Book 84, Page 224; deed dated October 6, 1925, recorded in Deed Book 91, Page 294; deed of the Master Commissioner, dated March 25, 1935, recorded in Deed Book 98, Page 228; and deed dated October 24, 1955, recorded in Deed Book 118, Page 302, all of the Harrison County, Kentucky Clerk's Office.

VACANT - NO ADDRESS AVAILABLE
Per the PVA Office of Harrison County, Kentucky

EXHIBIT A-2

Legal Description of the Easement Area

To be added once Grantee determines the location of the Easement Area and Grantee's licensed surveyor prepares the legal description.

Depiction of the proposed 50' Easement Area:

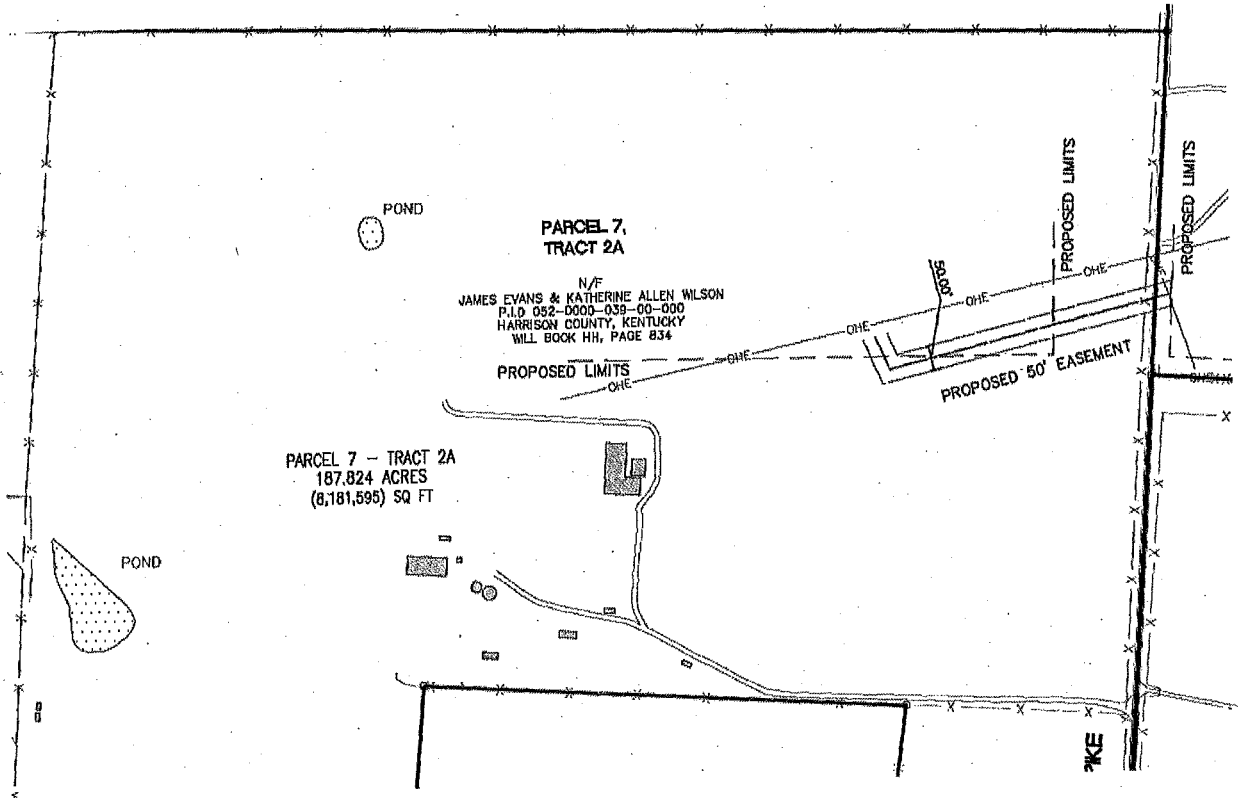


EXHIBIT B

Payment Addendum

Redacted for recording purposes.

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SOLAR GROUND LEASE AGREEMENT

THIS SOLAR GROUND LEASE AGREEMENT (this "Lease") is made and entered into as of the 28 day of September, 2016 (the "Effective Date"), by and between James Evans Wilson and Katherine Allen Wilson (collectively, "Landlord") and Bluebird Solar LLC, a Kentucky limited liability company ("Tenant").

WITNESSETH:

In consideration of [REDACTED] paid in hand from Tenant to Landlord by no later than October 10, 2016 (the "Phase 1 Payment Date"), and the rent to be paid to Landlord by Tenant, as hereinafter provided, and of the covenants and agreements upon the part of Landlord and Tenant to be kept and performed, Landlord hereby leases to Tenant, and Tenant leases from Landlord, a portion amounting to approximately 166 acres of that certain property with Parcel ID Nos. of 052-0000-029-00-000 and 052-0000-039-00-000, containing approximately 407 acres, located at 620 Allen Pk, Cynthiana, Ky 41031 and in substantially the location set forth on Exhibit A attached hereto and by this reference made a part hereof (the "Land"), and all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the Land and the improvements now or in the future located thereon (the Land, together with the above-described property, improvements and appurtenances are hereinafter collectively referred to as the "Premises"), to be occupied and used upon the terms and conditions herein set forth.

1. Term of Lease; Extension Terms; Termination Rights; Contingencies/Due Diligence.

(a) The term of this Lease (including any extensions or renewals, the "Term") shall commence on the Effective Date and shall end at 11:59 P.M. local time on the date that is two hundred forty (240) months after the Rent Commencement Date (as hereinafter defined) (the "Expiration Date"), unless extended or sooner terminated as herein provided; provided, however that if the Rent Commencement Date is other than the first day of a calendar month, the Term shall be extended automatically until 11:59 P.M. local time on the last day of the calendar month in which the Term otherwise would expire.

(b) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to extend the initial two hundred forty (240) month Term granted herein for up to four (4) additional, consecutive terms of five (5) years each (each a "Extension Term" and collectively, the "Extension Terms") by providing Landlord with written notice of Tenant's election to extend the Term for the applicable Extension Term prior to the date that is three (3) months prior to the Expiration Date (or prior to the expiration of the then current Extension Term, as applicable). For the avoidance of doubt, the first Extension Term shall commence on the last day of the initial Term with no gap in between, and the second Extension Term shall commence on the last day of the first Extension Term with no gap in between.

(c) If Tenant is not then in default under the terms of this Lease, Tenant shall have the right to terminate this Lease in the event that its power purchase agreement or other agreement under which Tenant provides power generated at the Premises to a third party is terminated for any reason whatsoever. Upon a termination of this Lease by Tenant permitted hereunder, this Lease shall terminate and become null and void, and Tenant shall have no further obligations hereunder (other than the payment of accrued and unpaid rent, the obligation to restore the Premises set forth in Section 13, and those

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obligations, if any, that are stated herein to expressly survive the expiration or earlier termination of this Lease).

(d) Tenant's obligation to perform hereunder shall be subject to the satisfaction (or waiver) of the following contingencies (collectively the "Contingencies"):

(i) Tenant obtaining all necessary approvals from state, federal and local authorities required by Tenant to construct its proposed improvements and to operate the Premises for the Intended Use (as hereinafter defined),

(ii) Tenant's entering into power purchase agreement(s) and REC purchase agreement(s) for the proposed improvements and operations at the Premise to Tenant's satisfaction,

(iii) Tenant's review and approval of title and survey matters with respect to the Premises, the environmental condition of the Premises and the physical condition of the Land,

(iv) Tenant's receipt of the subordination, non-disturbance and recognition agreements contemplated in Section 21,

(v) Tenant deciding to lease the Premises in lieu of other sites being considered by Tenant prior to the Rent Commencement Date, and

(vi) Tenant's review and approval of any other matters that Tenant deems relevant to determining whether Tenant's leasing of the Premises is economically and otherwise feasible.

If Tenant is unable to satisfy the Contingencies to Tenant's satisfaction prior to the Rent Commencement Date, or if Tenant otherwise determines that Tenant's leasing of the Premises is not feasible or desirable for any reason whatsoever, Tenant may terminate this Lease by giving written notice to Landlord prior to the Rent Commencement Date; provided however, that Tenant's right to terminate this Lease under this Section 1(d) shall expire upon Tenant's installation on the Premises of any permanent improvements or alterations.

In addition, if Tenant is unable to secure the participation of a sufficient number of neighboring landowners prior to [REDACTED], Tenant shall have the right, in Tennat's sole discretion, to Terminate this Lease by giving written notice to Landlord on or prior to the Phase 1 Payment Date.

As part of Tenant's due diligence, Tenant shall be entitled to conduct (at its expense) such testing of the Premises as Tenant shall determine necessary in its discretion, including without limitation, one or more environmental audits or assessments, and to physically inspect and review the Premises, which investigation shall be of such scope as Tenant determines. Landlord will be compensated for crop damages resulting from such activities at a rate to be mutually determined based on the damage done.

Prior to the Rent Commencement Date, Tenant shall (at its expense) obtain a survey of the Land (the "Survey") that shall show the boundary line of the Premises and otherwise be sufficient to constitute a legal subdivision of the Premises from Landlord's land of which the Premises is a part upon the recordation of the Survey in the appropriate office, if required. The Survey shall show what acreages are wooded or open.

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As part of its inspections and performance of the Survey, Tenant may elect to reduce the Land subject to this Lease, for any reason or no reason, for all or part of the Premises by delivering written notice to Landlord at any time and for any reason. Landlord agrees that Tenant may terminate pursuant to the foregoing a portion of the Premises ("Released Premises") so long as: (i) the Released Premises is not less than twenty-five (25) contiguous acres, and (ii) Landlord has access to the Released Premises. The portion of the Premises remaining after any partial termination of this Lease shall thereafter be the "Premises" for purposes of this Lease, and all payment amounts based on acreage shall be adjusted to the greater of either: (i) eighty-six (86) acres, or (ii) the amount of acreage of the Premises not terminated. In the event that Tenant elects such partial termination, the Survey (reflecting such termination) shall be incorporated into Exhibit A as if fully set forth therein without amendment to this Lease, and that for purposes of determining the amount of rent payable hereunder, the size of the Premises and the delineation of acreages as open or wooded as shown on the Survey shall be binding on the parties hereto.

2. Rent; Rent Escalation; Rent Commencement Date.

(a) Beginning on the Rent Commencement Date, annual rent shall equal [REDACTED] [REDACTED] per acre of wooded land located within the Premises (prorated for any fractional acres) plus [REDACTED] per acre of open land located within the Premises (prorated for any fractional acres), each as determined by the Survey. If Tenant elects to terminate in accordance with Section 1(d) of this Lease, no rent shall be due or payable.

(b) Annual rent during the Term shall be payable on a bi-annual basis, with the first rent installment payable on the Rent Commencement Date, the second rent installment being due on the date that is six (6) months after the Rent Commencement Date, and subsequent payments of rent being due every six (6) months thereafter. The payment of rent for any fractional calendar year during the Term shall be prorated. All rent payments due to the Landlord under this lease will be made to J. G. Wilson Farm.

(c) Beginning on the [REDACTED] annual anniversary date of the Rent Commencement Date, and on each subsequent annual anniversary date of the Rent Commencement Date thereafter for the remainder of the Term (including any such anniversary dates occurring during any exercised Extension Term), the annual rent payable hereunder shall increase over the annual rent payable for the prior year by [REDACTED]

(d) As used herein, and subject to the terms of this Section 2(e), the term "Rent Commencement Date" shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility).

(e) Tenant may, at its option, delay the Rent Commencement Date such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED] notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "First Extension Fee"). The First Extension Fee shall not be applied toward rent.

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(f) Tenant may, at its option, delay the Rent Commencement Date for a second time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Second Extension Fee"). The Second Extension Fee shall not be applied toward rent.

(g) Tenant may, at its option, delay the Rent Commencement Date for a third time such that the same shall be the earlier of (i) [REDACTED] or (ii) the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). In order to so extend the Rent Commencement Date, Tenant must, prior to [REDACTED], notify Landlord in writing and pay to Landlord a non-refundable extension fee in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "Third Extension Fee"). The Third Extension Fee shall not be applied toward rent.

(h) If any installment of rent is not received by Landlord fifteen (15) days after the later of the date that the same is due hereunder and the date Landlord provides Tenant written notice of the delinquency, Tenant will pay a late fee to Landlord in the amount of [REDACTED] of the unpaid delinquent rent amount.

3. Farm Rent Offset. In addition to the other rent contemplated in Section 2, Tenant shall pay to Landlord after Tenant gives Landlord notice that Tenant intends to commence construction of its intended solar farm on the Premises (the "**Notice of Proceeding**") (which Notice of Proceeding need only be given if Tenant elects to proceed with the construction in Tenant's sole discretion) in the amount of [REDACTED] of the amount of annual rent that would be due during the first (1st) year following the Rent Commencement Date (the "**Farm Rent Offset**"), which shall be payable as follows: [REDACTED] of the Farm Rent Offset shall be due and payable within thirty (30) days after Tenant's giving of the Notice of Proceeding and the remaining [REDACTED] of the Farm Rent Offset shall be due and payable on the earlier of (i) six (6) months after Tenant's giving of the Notice of Proceeding or (ii) the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding. If the Rent Commencement Date is not accomplished within 12 months after construction starts as identified in the Notice of Proceeding, the Tenant will make an additional payment of 1/2 of the Farm Rent Offset within 30 days after the end of the 12 month period. If the Notice of Proceeding is given between March 15 of the then current calendar year and the harvesting of the crops Landlord had planted during the applicable growing season, the Farm Rent Offset is not due and Tenant shall either (i) allow Landlord to continue its farming operation until the end of the applicable growing season or (ii) require Landlord to stop such farming activity and pay to Landlord a fee equal to [REDACTED] per acre, in which case Landlord shall stop all such farming activity and remove all equipment and personal property within thirty (30) days of Tenant's request and Tenant may remove the same if Landlord does not remove and destroy any remaining crops. Payments made to Landlord as provided in this Section 3 shall not be applied towards other rent due under this Lease and shall be non-refundable.

4. Utilities. During the Term, Tenant shall pay for all public utilities used in or at the Premises by Tenant.

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5. Alterations. Tenant shall install a fence around the perimeter of the Premises at least six (6) feet high and no more than eight (8) feet high and vegetative screening between the solar farm and streets or neighboring residential areas along with adequate security devices and signage appropriate to a solar farm where electricity is generated, and Tenant shall be solely responsible for the maintenance in good order of such fence, security devices and signage throughout the Term. The Tenant acknowledges that the Landlord may raise cattle on property adjoining the Premises and the Tenant may install a secondary fence or make other provisions to the fence around the perimeter of the Premises which he deems appropriate. The Tenant will not hold the Landlord liable for incidental damage caused by the cattle. Landlord may identify to the Tenant any improvements, structures, or fixtures which he wishes to retain. Such items can be removed from the Premises by and at the expense of the Landlord. Any such items must be removed prior to the date identified in the Notice of Proceeding when the Tenant will commence construction and those items remaining at that date will come under the control and responsibility of the Tenant. Tenant may, at its expense, make any other alterations, additions, improvements and changes (including, without limitation, removal of existing improvements and fixtures and trees and plants) to the Premises as it may deem necessary or desirable in connection with its Intended Use of the Premises, without the consent of Landlord. Such alterations, improvements, and changes may, in Tenant's sole discretion, include the cutting, removal, and sale of any timber or trees, including, without limitation, any remaining stumps, on the Premises; in the event that Tenant requests, Landlord shall execute and deliver a timber deed in commercially reasonable form to evidence such rights of Tenant in the timber and trees. Proceeds from the sale of timber will be shared equally between the Landlord and the Tenant. Any and all such alterations, additions, improvements or changes conducted by Tenant shall be done in compliance with applicable laws. Landlord agrees to sign any permit applications, to the extent required by law, and to take all such other actions as are reasonably required to allow Tenant to accomplish any such alterations, additions, improvements and changes to the Premises. Any and all improvements constructed on the Premises by or for Tenant, and all machinery, fixtures, trade fixtures, furniture, equipment, and other personal property installed or placed in the Premises by or for Tenant (including, without limitation solar modules, panels, and other equipment), shall, regardless of the manner of attachment to the Premises or the improvements thereon, be and at all times remain the property of Tenant and shall be removed by it at the expiration or earlier termination of this Lease as provided in Section 13.

6. Use and Occupancy. Tenant shall be entitled to use the Premises for operation of a solar photovoltaic power array for the generation of electric power and ancillary and associated uses (the "Intended Use") and for no other use without the written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant agrees that no unlawful use of the Premises will be made. Landlord shall deliver sole and exclusive possession of the Premises to Tenant on the Effective Date.

7. Insurance.

(a) Tenant shall, after its improvements are completed, keep such improvements insured against loss or damage by fire, windstorm, earthquake and similar hazards in commercially reasonable amounts determined by Tenant.

(b) Beginning on the Effective Date, Tenant, at its sole cost and expense, shall keep or cause to be kept Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit of at least [REDACTED] each Occurrence and at least [REDACTED] in the aggregate-per location, which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises.

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(c) Any provisions herein to the contrary notwithstanding, Landlord and Tenant mutually agree that, in respect to any loss which is covered by insurance then being carried by them respectively (or which would have been covered had such party maintained the insurance required hereunder), the one carrying such insurance and suffering said loss hereby releases the other of and from any and all claims with respect to such loss, and waives any rights of subrogation which might accrue to the carrier of such insurance.

8. Taxes. Tenant shall pay when due all ad valorem taxes and assessments that may be imposed upon the Land or Premises beginning on the date that Tenant actually commences construction in the solar farm described in the Notice of Proceeding until the end of the Term by applicable governmental entities, including, without limitation, all ad valorem taxes and assessments levied upon the improvements made to the Land by Tenant or upon any other property installed in or brought onto the Premises by Tenant (but excluding any "roll-back" taxes or other taxes applicable to the period prior to the beginning of the Term). In the event that Tenant's use of the Premises for the Intended Use causes an increase in taxes on any other property owned by Landlord, any such increased taxes for such other property shall be paid by Tenant (to the extent proven to be in addition to those Landlord would otherwise be required to pay for such other property). Furthermore, in the event that the Premises is a part of a larger tax parcel owned by Landlord and ad valorem taxes on such tax parcel increase as a result of Tenant's use of the Premises for the Intended Use, the increased taxes resulting from such change of use shall be equitably apportioned as to Landlord and Tenant in a pro-rata manner such that Tenant is responsible only for such costs as they relate to the Premises or to the extent proven to be in addition to those Landlord would otherwise be required to pay for the remainder of the tax parcel.

9. Fire or Other Casualty. In the event that the Premises, the improvements thereon, or any portions thereof, are damaged by fire or other casualty during the Term, and if in Tenant's sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Premises or the improvements thereon, as the case may be, Tenant may terminate this Lease by written notice to Landlord. The proceeds of any casualty insurance policy maintained by Tenant shall first be applied to the removal and restoration requirements of Tenant as provided herein and, thereafter, be payable to Tenant.

10. Condemnation.

(a) In the event that the whole of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, or such portion thereof that, in Tenant's judgment, the remainder of the Premises is not suitable for Tenant's purposes (herein called a "Total Taking"), then this Lease shall terminate as of the earlier of the date when title thereto vests in the condemnor or the date when possession thereof shall be delivered to the condemnor.

(b) In the event that a portion or portions of the Premises shall be taken under the exercise of the power of eminent domain or by agreement with any condemnor in lieu of such taking, and such taking does not constitute a Total Taking (herein called a "Partial Taking"), then this Lease, only as to the portion or portions so taken, shall terminate as of the date possession thereof shall be delivered to the condemnor, but otherwise this Lease shall remain in full force and effect. In the case of a Partial Taking, the rent payable under this Lease after possession of the portion so taken shall be reduced based on the acreage so taken.

(c) In the event that Landlord and Tenant are unable to obtain separate awards with respect to their respective interests in the Premises, then, the single award shall be fairly and equitably apportioned between Landlord and Tenant. The portion of the award to be received by Landlord shall be based upon the taking of or injury to the fee simple estate in the Land, but not the improvements thereon.

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The portion of the award to be received by Tenant shall be based upon the taking and reduction of Tenant's leasehold estate created by this Lease, the taking of any improvements constructed or placed by Tenant on the Land, loss or interruption of Tenant's business and the cost of any restoration or repair necessitated by such taking or condemnation. Notwithstanding the foregoing, however, in the event Tenant has exercised its right to terminate this Lease under this Section 10, then Tenant shall first receive all condemnation proceeds until Tenant has received an amount equal to the appraised value of the improvements made to the Land by Tenant prior to the taking. Tenant shall have the right to participate, at its own expense, in any such condemnation proceedings and to negotiate on behalf of itself and Landlord in such proceedings; provided, however, Tenant shall not enter into any binding agreement or settlement without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed by Landlord. Landlord agrees to cooperate with Tenant and to execute such documentation as may be reasonably necessary to allow Tenant to participate in such condemnation proceedings.

11. Maintenance and Repairs. During the Term, Tenant shall be responsible, at its sole cost and expense, for the repair and maintenance of the Premises.

12. Default. [REDACTED]

13. Termination of Lease. Following the expiration or termination of this Lease as hereinabove provided, or pursuant to statute, or by summary proceedings or otherwise, Tenant shall restore the Land (and any other land of Landlord impacted by Tenant's use of the Premises) to substantially its condition as of the Effective Date using prudent engineering practices where applicable, including, without limitation, the removal of all improvements and alterations to the Land or Premises (including, without limitation, all fencing, roads, solar panels and mounting, and other improvements or alterations) and any electrical or communication or other utility poles, lines and connections (unless such lines and connections are used in connection with other property owned by Landlord and Landlord elects to allow such lines and connections to remain); provided, however, that Tenant shall not be obligated to regrade the Land or any other property, replant any crops or plants, replace any improvements that were removed by Tenant, or remove any improvements (including trees and plants) that were added by Tenant prior to the construction of the solar farm as provided for in Section 5 hereof. The removal and restoration shall be completed in a manner that does not materially, adversely affect the potential re-use of the Land or the Premises or other land of Landlord.

Tenant may, in its discretion, determine the length of such period following the expiration or termination up to a period of [REDACTED] and shall provide Landlord with written notice of such length prior to the date that is [REDACTED] after such expiration or termination. Tenant shall pay Landlord rent for the period beyond the expiration or termination in an amount equal to the annual rent due and payable for the year immediately prior to such expiration or termination prorated based on the actual number of days in such extension divided by [REDACTED]. Tenant shall have all

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rights granted to Tenant under this Lease during the period of such extension, including, without limitation, the right to access the Premises for the purposes of complying with this Section 13. This Section 13 shall survive the expiration or termination of this Lease.

14. Possession After Expiration or Termination. If Tenant fails to vacate and surrender the possession of the Premises at the expiration or termination of this Lease (with all removal and restoration requirements contained in Section 13 completed), Landlord shall be entitled to recover from Tenant rent in an amount equal to [REDACTED] of the amount of rent payable hereunder at the end of the Term for the period from the termination or expiration of this Lease until the date the Premises are vacated and surrendered (with all removal and restoration requirements contained in Section 13 completed), acceptance of which additional rent shall not extend the term of this Lease.

15. Binding Effect: Assignment and Subletting. This Lease shall be binding upon and inure to the benefit of the parties hereto and their legal representatives, successors and assigns. Tenant may assign this Lease, in whole or in part, or sublet the Premises, or any part thereof, without Landlord's prior consent but with contemporaneous notice of such assignment.

16. Indemnifications. Except to the extent caused by the negligent or willful act or omission of Landlord its agents, contractors, servants or employees, Tenant agrees to indemnify, defend, and hold Landlord harmless from any and all loss, liability, expense, damages or claims which Landlord may be compelled to pay or incur on account of injuries to person or property on the Premises or any other cause where the aforesaid injuries are caused by or arise out of Tenant's use of the Premises, the acts or omissions of Tenant, its agents, contractors, servants or employees, or Tenant's breach of its obligations under this Lease. Except to the extent caused by the negligent or willful act or omission of Tenant, its agents, contractors, servants or employees, Landlord agrees to indemnify and hold Tenant harmless from any and all damages or claims which Tenant may be compelled to pay on account of injuries to person or property on the Premises where the aforesaid injuries are caused by the negligent or willful acts of Landlord, its agents, servants or employees or Landlord's breach of its obligations under this Lease.

17. Quiet Enjoyment. Landlord covenants and warrants that as long as Tenant is not in default under the terms and conditions of this Lease (beyond any applicable notice and cure periods), it will defend the right of possession to the Premises in Tenant against all parties whomsoever for the entire Term, and that Tenant shall have peaceable and quiet possession of the Premises during the Term without hindrance or molestation.

18. Waiver. The waiver by any party of any breach of any covenant or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant or agreement herein contained.

19. Notices. All notices, elections, demands, requests, payments and other communications hereunder shall be in writing, signed by the party making the same and shall be sent by certified or registered United States mail, postage prepaid, or by national overnight courier service which provides tracking and acknowledgement of receipts, addressed to:

To Landlord: James Evans Wilson and Katherine Allen Wilson
620 Allen Pk
Cynthiana, Ky. 41031

To Tenant: Bluebird Solar LLC
7804-C Fairview Rd #257

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Charlotte, NC 28226
Attention: Juergen Fehr

And to: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, North Carolina 27609
Attn: John Livingston

or at such other address as may hereafter be designated in writing by either party hereto. The time and date on which mail is postmarked shall be the time and date on which such communication is deemed to have been given.

20. Memorandum of Lease. Landlord and Tenant agree that this entire Lease shall not be recorded. However, contemporaneously with the full execution of this Lease, Landlord and Tenant shall execute and record (to be recorded at Tenant's expense) a memorandum of this Lease, specifying the Effective Date, the Expiration Date, the Extension Terms granted herein, and such other provisions hereof as the parties may mutually agree to incorporate therein, which memorandum of lease shall be in form sufficient to publish notice and protect the validity of this Lease and Tenant's rights hereunder. The memorandum of lease shall be recorded in the Public Registry in the County in which the Land is located.

21. SNDA. No later than the Rent Commencement Date, Landlord shall provide to Tenant a subordination, non-disturbance, and attornment agreement from any and all current beneficiaries of mortgages/deeds of trust, or any other holders of liens on the Land or any portion thereof, whereby such beneficiaries and lien holders agree not to disturb Tenant's rights under this Lease in form and substance acceptable to Tenant. With respect to any future beneficiary of a mortgage or deed of trust, Landlord shall request of such beneficiary a subordination, non-disturbance, and attornment agreement in such form as is acceptable to Tenant for the benefit of Tenant.

22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

23. Invalidity of Particular Provisions. If any term or provision of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each other term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

24. Landlord's Warranties and Representations. Landlord hereby agrees with, and warrants and represents to Tenant as follows:

(a) Landlord is the owner of the Premises with full right and authority to execute this Lease and to lease the Premises to Tenant in accordance with the terms hereof;

(b) the Premises are free from environmental contamination of any sort and complies with any and all applicable laws, rules, regulations and recorded documents;

(c) Landlord has not received any notice of condemnation, zoning change or legal noncompliance relating to the Premises;

(d) Landlord will not institute or consent to any rezoning of the Premises during the Term (other than rezonings requested by Tenant);

(e) Landlord shall not further encumber the title to the Premises during the Term;

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(f) Landlord acknowledges and agrees that access to sunlight is essential to the value to Tenant of the rights granted hereunder and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall not cause or, to the extent within Landlord's control, permit any property then owned or controlled by Landlord in the vicinity of the Premises, or any uses or improvements thereon, to impair Tenant's Intended Use of the Premises (for example, and without limiting the generality of the foregoing, Landlord shall not cause or permit any cell towers, water towers, billboards, silos or any other structures to be placed or constructed thereon that may obstruct the sunlight that otherwise would reach the solar panels located on the Premises, or that may cast shade or shadows upon the solar panels located on the Premises or any portion thereof). If Landlord becomes aware of any potential activity on any adjacent or nearby parcel of land that could diminish the access to sunlight at the Facilities, Landlord shall use its best efforts (i) to timely advise Tenant of such information and (ii) with respect to any adjacent or nearby parcel of land then owned or controlled by the Landlord, to reasonably cooperate with Tenant in taking measures to preserve the levels of sunlight at the Facilities that existed as of the date of this Lease. Tenant shall be entitled to seek all remedies available at law and inequity, including but not limited to, specific performance, to compel compliance with this paragraph;

(g) the Land is free from any recorded or unrecorded use or occupancy restrictions or declarations of restrictive covenants;

(h) Landlord has not and, to the best of Landlord's knowledge, its predecessors in title and Landlord's tenants have not used, manufactured, stored or released hazardous substances on, in or under the Land other than the application of certain materials in the ordinary course of farming the Premises and adjoining property (such as pesticides, herbicides, fertilizer, and other agricultural material).

(i) there are no service or maintenance contracts affecting the Premises for which Tenant may be obligated or liable for;

(j) there are no delinquent or outstanding assessments, liens or other impositions levied or assessed against the Premises;

(k) except for this Lease, there are no leases, options to purchase, license agreements or other third party rights to use or possess the Land, whether written or oral, recorded or unrecorded;

(l) Landlord is not in the hands of a receiver nor is an application for such a receiver pending;

(m) Landlord has made no assignment for the benefit of creditors, nor filed, or had filed against it, any petition in bankruptcy; and

(n) Within five (5) days after the full execution of this Lease, Landlord shall provide copies of the following to Tenant: any notices of any statute or code violation pertaining to the Premises; all "Phase I" and other environmental assessment reports for the Premises in Landlord's possession or control; Landlord's most recent survey and title insurance policy relating to the Premises; any governmental permits for the Premises and any other documentation in Landlord's possession relating to the Premises.

25. Brokerage Commission. Neither Landlord nor Tenant knows of any real estate brokers or agents who are or may be entitled to any commission or finder's fee in connection with this Lease. Each party hereto agrees to indemnify, defend and hold the other party harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, fees for legal counsel and costs) with respect to any leasing commission or equivalent compensation

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alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent.

26. Easements.

(a) Operations Easements. Landlord hereby irrevocably grants and conveys to Tenant, for the Term, the following easements from the Land across any property owned by Landlord or in which Landlord has a controlling interest and which is adjacent to the Land (the "Adjacent Property"), for the benefit of Tenant (collectively, the "Easements") which Easements shall be appurtenant to Tenant's leasehold estate, run with the Land and inure to the benefit of and be binding upon the Landlord:

(i) An exclusive easement for electrical interconnection purposes;

(ii) An exclusive easement for vehicular and pedestrian access, ingress or egress, including the right of Tenant to build roads across the Adjacent Property;

(iii) A non-exclusive easement and right-of-way for vehicular and pedestrian ingress, egress and access to and from the Land and to and from lands adjacent to the Adjacent Property, by means of (i) the now existing or hereafter constructed roads, lanes and rights-of-way on the Adjacent Property, and (ii) such additional roads as Tenant or anyone else may construct (including rights to maintain, improve, rebuild or relocate such roads) from time to time;

(iv) An exclusive easement and right to install, maintain, repair, replace and operate on the Adjacent Property multiple (A) transmission, distribution and collection cables (including fiber optic cables), conduits, wire and/or lines which carry electrical energy to and/or from the Land; (B) communication cables (including fiber optic cables), conduits, wire and/or lines which carry communications of any nature to and from the Land; and (C) other improvements, facilities, appliances, machinery and equipment in any way related to or associated with any of the foregoing, together with such rights of way as may be reasonably necessary to install, maintain, repair and operate any of the foregoing; and

(v) A temporary easement on, over, across and under the Adjacent Property, to be used as necessary for access and staging in connection with the construction, operation and maintenance of the Facilities (provided that Tenant shall, to the extent reasonably possible, restore the Adjacent Property to substantially the same condition as existed prior to such use).

(b) Recording. The parties agree that the final area of the Adjacent Property subject to the Easements shall be negotiated in good faith and shall be subject to the mutual agreement of the parties. Landlord shall execute and deliver Tenant any documents or instruments reasonably requested by Tenant in recordable form to evidence the Easements, containing all the rights and privileges set forth herein, within twenty (20) days following written request therefor from Tenant.

(c) Landlord Easements. To the extent that Landlord holds or has the right to use any access, utility, transmission, water or other easements, rights of way or licenses over lands in the general vicinity of the Land (the "Landlord Easements") on the date of this Lease, and such Landlord Easements are or could be used for the benefit of the Land, then the same are hereby included in this Lease, and Tenant shall be entitled to use such Landlord Easements to the full extent that such use is permitted under the Landlord Easements and provided that such use does not interfere with Landlord's use of the same. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional

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consideration, one or more sub-easements of the Landlord Easements to run concurrently with the Term (or for such shorter period of time as is provided in the applicable Landlord Easement).

(d) Tenant Easements. Tenant is hereby authorized to grant such easements across, under and over the Premises (and/or across any adjacent property owned by Landlord) as are reasonably necessary for rights of way, ingress and egress and for the installation, construction, maintenance, repair and replacement of utility lines serving the Premises during the Term of this Lease, including without limitation any such easements required to connect the Premises to a receiver of electric power generated at the Premises. Landlord in its sole discretion shall have the right to terminate such easements upon the termination of this Lease. Landlord covenants and agrees that Landlord shall, upon the request of Tenant, join in the execution of any such easement. Landlord agrees to sign any applications or other documents, and to take all such other actions, as are reasonably required to allow Tenant to obtain any re-zonings, variances or other approvals required by Tenant to operate the Premises for the Intended Use.

27. Tenant's Access. Tenant, and Tenant's agents, guests, subtenants and designees shall have access to the Premises at all times during the Term. Neither Landlord nor any agent of Landlord shall, without a Tenant representative, enter upon any portion of the Premises, except in the case of an emergency. Further, this Lease shall entitle Tenant, at Tenant's discretion, to install, use and maintain a permanent gravel commercial driveway within the Premises and a second temporary construction driveway within the Premises providing access to the Premises from adjoining roads in accordance with KY DOT standards.

28. Landlord's Access. Landlord hereby reserves for itself the right to access adjoining property owned by Landlord that would not have access to a public roadway otherwise over a twenty foot (20') wide path over the Premises in a location to be determined by Tenant (the "**Landlord Access**") subject to the terms of this Section 28. Tenant shall also have the right to use the Landlord Access for the benefit of the Premises. Landlord shall only use the Landlord Access for the benefit of Landlord's adjoining property as currently being used and such access shall only commence after the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Notwithstanding anything to the contrary, Tenant may consent in writing, such consent not to be unreasonably withheld, to Landlord's use of the Landlord Access for specific tasks of limited duration prior to the date that the solar farm constructed by Tenant on the Premises achieves commercial operation and is delivering electricity to the applicable utility (such date being the commercial operation date as determined by any applicable agreement between Tenant and the utility). Landlord shall not use the Landlord Access in any manner that interferes with Tenant's operations pursuant to this Lease or enjoyment of Tenant's rights granted under this Lease. Landlord shall promptly restore any damage caused by Landlord's use of the Landlord Access. Tenant shall install a gate on such Landlord Access. After Landlord's right to use the Landlord Access commences, Tenant shall provide Landlord a copy of any key to the gate, and Landlord may use the gate but shall keep such gate closed and locked at such times as Landlord is not using the Landlord Access. Additionally, Landlord shall be solely responsible, at Landlord's sole cost and expense, for the maintenance, repair, replacement, and improvement of the Landlord Access. Landlord shall perform all such maintenance, repair, replacement, and improvement in a good and workmanlike manner that minimizes interference with Tenant's operations pursuant to the Lease or Tenant's rights granted pursuant to the Lease. Tenant, at Tenant's sole cost and expense, may relocate the Landlord Access as desirable for the use of the Premises so long as the relocation reasonably allows Landlord continued access to its adjoining property.

29. Confidentiality. All information acquired by Landlord or any of its designated representatives (including by way of example, but not in limitation, the officers, directors, shareholders and employees of Landlord, and Landlord's consultants, counsel, lenders, and the officers, directors,

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shareholders and employees of each of them) with respect to Tenant, including, without limitation, with respect to the terms of this Lease (collectively, the "Confidential Information") shall be used solely for purposes of negotiating and fulfilling the terms of this Lease and for no other purpose whatsoever. All Confidential Information that is not published as public knowledge or that is not generally available in the public domain shall be kept in strict confidence by Landlord and shall not be disclosed to any individual or entity other than to those authorized representatives of Landlord who require any portion of the Confidential Information to assist Landlord in its negotiation and fulfillment of the terms of this Lease and who Landlord has bound to a confidentiality agreement requiring such party's compliance with the terms of this Section 29; provided, however, that Landlord shall have the right to disclose any such information if required by applicable law or as may be necessary in connection with any court action or proceeding with respect to this Lease. Tenant shall have all rights and remedies available to it at law and in equity, including, without limitation, injunctive relief or a suit for damages, in the event of Landlord's breach of this Section 29.

30. Amendment; Entire Agreement; Interpretation. This Lease may only be amended or modified by a written instrument signed by both Landlord and Tenant. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. This Lease may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various provisions in this Lease and shall in no event be considered otherwise in construing or interpreting any provision in this Lease. This Lease shall create the relationship of landlord and tenant between the parties. Nothing herein shall be deemed to create any partnership, joint venture, or agency relationship between the parties. Neither party shall make any representation or statement (whether oral or written) to any person or entity inconsistent with this provision. The use herein of a singular term shall include the plural and use of the masculine, feminine or neuter genders shall include all others. Time is of the essence of this Lease. This Lease shall not be binding (and not deemed an offer, reservation, or option to Lease) until executed by both Landlord and Tenant.

31. Execution by Landlord. Landlord and the undersigned person executing this Lease represent and warrant that the undersigned person executing this Lease on behalf of Landlord has due and proper authority to do so and to bind Landlord to this Lease and all terms, covenants and conditions thereof and that this Lease is a legal, valid, and binding obligation of Landlord enforceable in accordance with its terms.

32. Estoppel. Within fifteen (15) business days after written request therefor by Tenant, Landlord agrees to deliver a certificate to Tenant, Tenant's lender (if applicable) and any proposed purchaser of the ownership interests of Tenant (if applicable), in a commercially reasonable form (subject to reasonable modification by any applicable purchaser or Tenant's lender) to Tenant's lender or to any proposed purchaser and/or to Tenant setting forth the terms of the Lease, the absence of default thereunder, and such other reasonable terms requested by Tenant, lender or purchaser. In the event Landlord fails to respond within such fifteen (15) business day period, then, in addition to such failure constituting an event of default, all matters set forth in the estoppel certificate shall be deemed to be true, accurate and complete.

33. Mineral Rights. Landlord hereby agrees that it will not take any action in connection with the extraction of subsurface minerals located below the Land that will interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease nor will it grant anyone any rights with respect to the subsurface minerals located below the Land that would allow them to take any action in

CONFIDENTIAL

connection with the extraction of the same that would interfere with Tenant's use of the Land in connection with the terms and conditions of this Lease.

[REMAINDER OF PAGE BLANK. SIGNATURE PAGE FOLLOWS.]

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IN WITNESS WHEREOF, the parties hereto have duly executed this Lease under seal as of the day and year first above written.

LANDLORD:

By: JAMES E. WILSON Leslie Anne Wilson
 Name: James E. Wilson Leslie Anne Wilson
 Title: owner

LANDLORD:

By: Katherine Allen Wilson
 Name: Katherine Allen Wilson
 Title: owner

TENANT:

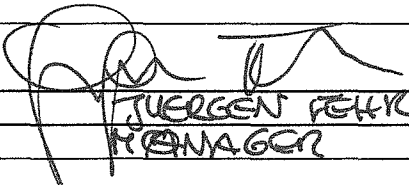
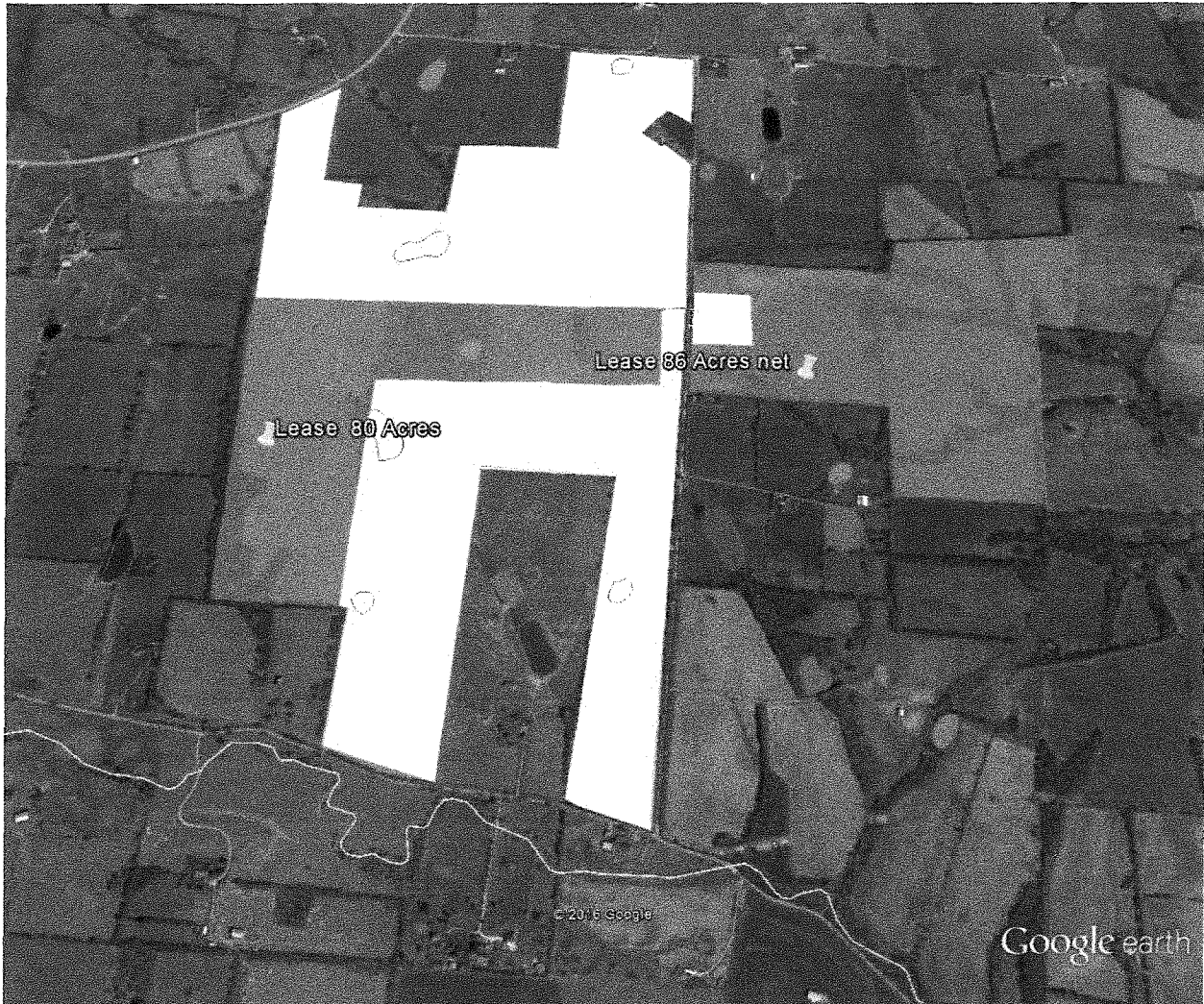
By: 
 Name: JURGEN FEHLE
 Title: MANAGER

Exhibit A



James Evans and Katherine Allen Wilson
Parcel IDs 052-0000-039-00-000 and 052-0000-029-02-000

Data Request SITING BOARD_1_15:

Detail any contracts by which Bluebird Solar has paid, has negotiated to pay, has contracted to pay, or any compensation paid to non-participating landowners, whether cash or otherwise, near the project. Include the terms of that agreement and which properties are involved in terms of distance to the project boundaries.

Response: Bluebird has a purchase option for property that will not be included in the project boundary. The property that the purchase option covers will be swapped for ownership of separate property, that the McDowell Trust owned, to be included in the project. The McDowell Trust has used this property to support local youth agricultural education. Through the swap agreement, Bluebird will provide the Trust with significantly more land to supports its non-profit activities.

Witness: Clay Canning

Data Request SITING BOARD_1_16:

Detail the status of any applications for zoning changes or conditional use permits that are required for this project.

Response: The project required no zoning changes. The Board of Adjustments approved a Conditional Use Permit for the Project on May 24, 2021, and the project did not require any zoning changes.

See attached Board of Adjustment meeting minutes: "Board of Adjustment Harrison County Meeting Minutes," BSLLC_R_SITING BOARD_1_16_Attachment.

Witness: Clay Canning

BOARD OF ADJUSTMENT
HARRISON COUNTY

REGULAR MEETING

MEETING MINUTES
MAY 24, 2021

Courthouse Community Room

6:00 P.M.

Call to Order

Chairperson Re'Jeana Craft called the meeting to order.

Present: Re'Jeana Craft-Chairman, Carl Nunnelley-
Secretary, David Lawler and Tracy Lair
Bonnie Skinner-Director
Brian Canupp-Legal Counsel

Absent: James Switzer- Vice Chairman, Charlene Fuller

Minutes-March 1st, 2021:

Carl Nunnelley made a motion to approve the minutes of March 1st, 2021 as presented.

Tracy Lair seconded. Nunnelley, Craft, Lawler and Lair voted yes. None voted no.

Motion Passed 4-0.

Items for postponement or withdraw:

1. None.

1. Old Business

A. None.

2. New Business

A. #2021-HB-06-Jeff and Suzanne Taylor- Request for a conditional use permit for 2 rental suites at 3495 Ky Hwy 32 W. Zoning: Agricultural One (A-1). (Art. 10 Sec. 10.0.C.1)

Bonnie Skinner read a letter from adjoining property owner Carol Rogers in support of the request.

Carl Nunnelley made a motion to approve the conditional use permit for 2 rental suites at 3495 Ky Hwy 32 W; the conditional use will not have significant impact on adjoining properties, and shall meet the following conditions:

1. VRBO/ Airbnb must meet all requirements of the Building Code before occupancy.
2. The Applicant shall return to the Board of Adjustment prior to any change which affects the approved conditions.
3. All sign regulations shall be met.

4. The conditional use permit shall become null and void upon sale or transfer of the property.
5. The applicant shall comply with all the other federal, state and local regulations and entities and shall provide copies to the Board of Adjustment under any and all permits issued on behalf of the applicant as result of the approval of the conditional use permit.
6. The door leading to the pool shall be locked at all times.

Tracy Lair seconded. Nunnelley, Craft, Lawler and Lair voted yes. None voted no.
Motion Passed 4-0.

B. #2021-HB-07-Bluebird Solar LLC-Request for

Conditional Use for a Level 3 Solar Energy System and Variance for landscaping on 1,000 acres between U.S. 62 W and Ky Hwy. 353. Zoning:

Agricultural One (A-1). (Art. 23- Solar Energy System and Art. 23.B.I.3- Visibility). (PVA Map #066-0000-005-00-000, 066-0000-02-00-000, 066-0000-006-00-000, 065-0000-024-00-000, 065-0000-026-00-000, 066-0000-001-00-000, 052-0000-029-00-000, 052-0000-039-00-000, 080-0000-002-01-000, 080-0000-002-02-000, 066-0000-007-01-000, 066-0000-003-02-000, 066-000-007-00-000,)

The following individuals spoke in favor of the request: George Hawkins, Louis Dutton, Curtis Cout, Jerry Dawson, Sam Arnold, Morgan Farrow, Bill Hilliard, Byron Bell, and Nick Farmer.

Steven Burrier stated he had concerns about the contract and the Applicant was asked to review the lease and address any concerns with Mr. Burrier.

Anthony Koch was neutral on the application but had questions regarding the history, taxes and additional items for the Applicant. He was asked to address those after the meeting if they did not relate specifically to the conditional use permit.

Carl Nunnelley made a motion to recommend approval of the Bluebird Solar application for a conditional use for PVA Map #066-0000-005-00-000, 066-0000-02-00-000, 066-0000-006-00-000, 065-0000-024-00-000, 065-0000-026-00-000, 066-0000-001-00-000, 052-0000-029-00-000, 052-0000-039-00-000, 080-0000-002-01-000, 080-0000-002-02-000, 066-0000-007-01-000, 066-0000-003-02-000, 066-000-007-00-000- only 126 acres of this parcel). All of these are contingent upon the following conditions:

1. All construction activities shall be limited to daylight hours between 7:00 a.m. to 9:00 p.m. and will not be conducted on Sundays unless it is necessary to make up for delays or to meet deadlines. Construction workers may arrive on site prior to 7 a.m., but construction activities shall not take place until that time.
2. The Applicant shall adhere to its Landscape Plan as submitted to the Planning Commission for the site plan review. However, along KY-353 the applicant shall

at the minimum supplement existing landscape and plant either evergreens as listed in the Segment 5 planting plan or Segment 4 planting plan.

3. The Applicant shall maintain setbacks of a minimum of 100 feet to frontage boundary lines and 50 feet to side and rear boundary lines of any non-participating properties and roadways from the Applicant's solar energy system.
4. The Applicant's solar energy system, excluding utility poles, antennas, and substation equipment, shall not exceed 20 feet in height.
5. The Applicant shall prepare stormwater management plans that meet or exceed the Kentucky Stormwater Management Program regulations for all regulated activities at all stages of construction, operation, and decommissioning.
6. The Applicant shall obtain all required regulatory permits including a KPDES General Permit for Stormwater Discharges Associated with Construction Activity and a certificate of construction from the Kentucky State Board on Electric Generation and Transmission.
7. Following construction of the Project, the Project Site shall be fenced and locked at all times. The Project Site shall also be secured during construction. The Developer will install and maintain a permanent perimeter/boundary fence that meets the requirements of the National Electrical Safety Code.
8. Prior to the issuance of a Building Permit, a Decommissioning Plan and Cost Estimate shall be prepared by a licensed and Registered Professional Engineer from the Commonwealth of Kentucky who is not an employee of the Applicant or the landowner. The Decommissioning Plan shall comply with the minimum requirements of Article 23 of the Harrison County Fiscal Court's Zoning Ordinance. The Decommissioning Plan and Cost Estimate shall be approved by the Planning Commission prior to issuance of a Building Permit.
9. The Decommissioning Plan and Cost Estimate shall be updated every five years, submitted to the Planning Commission for approval, and the Security revised as appropriate based upon the revised cost estimate.
10. The Applicant shall post a combination performance and warranty surety in the amount indicated by the Cost Estimate in the form of either a Cash Deposit, Irrevocable Letter of Credit, or Surety Bond, which shall be both to ensure repair of defective materials and/or abandonment of the site. The Security shall be made in favor of the Cynthiana - Harrison County - Berry Joint Planning Commission in a form approved to the satisfaction of the Planning Commission.

11. The Applicant and the County shall enter into a recorded agreement in a form approved by the Planning Commission that ensures that the decommissioning is carried out in accordance with this Ordinance. The agreement at a minimum shall include a Decommissioning Plan, Cost Estimate, and language binding the applicant or landowner and the County to implement the decommissioning activities.
12. The project will be addressing any glare events through controls limiting the angle of rotation for the trackers on-site during periods of backtracking, typically early morning and late afternoon. During the first year of operation should glare events occur, Bluebird Solar will respond accordingly by modifying the tracker rotation limits in the plant controller during times when glare is present. The project will put together an Operations and Maintenance Glare plan, to be submitted to the Building Inspector before project permits. The plan will detail when onsite Operations and Maintenance (O&M) personnel would on-site mobilize to critical viewpoints during certain times of the year during specific early morning and late afternoon hours. As detailed in the Reflectivity and Visibility Analysis, implementing limitations on backtracking cut off angles would achieve the desired effect of reducing or preventing a glare event. The backtracking limits will be implemented during the hours and seasons as determined by the combined Reflectivity and Visibility Analysis and verified by the Operations and Maintenance team.
13. Ground shall be remain free of debris and damaged solar materials at all times after construction has been completed.
14. Prior to construction the Applicant shall prepare an emergency management plan acceptable to the local fire district and County and should be responsible for training of local personnel as needed.
15. We recommend the Applicant contact the agricultural department and property owners and have a discussion on appropriate landscaping for the area.

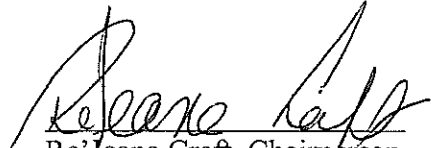
David Lawler seconded the motion. Nunnelley, Craft, Lawler and Lair voted yes. None voted no. Motion Passed 4-0.

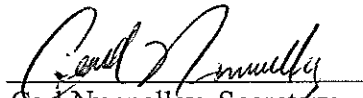
Other Business

1. Old Business
None
2. New Business
None.

Adjourn

Tracy Lair made a motion to adjourn being no other discussion at 8:45 pm. Carl Nunnelley seconded. Nunnelley, Craft, Lawler and Lair voted yes. None voted no. Motion Passed 4-0.


Rejeana Craft, Chairperson


Carl Nunnelley, Secretary

Data Request SITING BOARD_1_17:

Detail the status of any litigation in state or federal court, or before an administrative agency other than the Siting Board involving this project.

Response: The Project is not involved in litigation in any state or federal court; the project is not before an administrative agency separate from the Siting Board.

Witness: Clay Canning

Data Request SITING BOARD_1_18:

Reference Appendices-B of Attachment H and I of the Application. Provide an Electrical One-Line Diagram of the project.

Response: An Electrical One-Line Diagram of the project has been attached.

See attached diagram: "Electrical One-Line Diagram," BSLLC_R_SITING BOARD_1_18_Attachment.

Witness: Clay Canning

ID	INVERTER TYPE 1 INFORMATION		QTY
1	MANUFACTURER	POWER ELECTRONICS	28
	MODEL NUMBER	FS4200M	
	MIN MPPT DC VOLTAGE	934	
	MAX DC INPUT VOLTAGE	1500	
	MAX DC I _{sc} (A)	6400	
	MAX AC POWER (kW)	4200	
	NOMINAL AC VOLTAGE	600	
	MAX AC CURRENT	3849	
	OCVP RATING (A)	0	
	CEC EFFICIENCY (A)	0.975	
	ELECTRIC SERVICE COMPATIBILITY	0	
	ENCLOSURE RATING	NEMA3R	
	HARMONIC DISTORTION	<3%	
	FREQUENCY RANGE	60	

ID	MODULE #1 INFORMATION		QTY
3	MANUFACTURER	JA SOLAR	249,600
	MODEL NUMBER	JAM72030-5457M8	
	OPERATING CURRENT	13.74	
	SHORT CIRCUIT CURRENT	14.56	
	OPERATING VOLTAGE	40.40	
	OPEN CIRCUIT VOLTAGE	50.00	
	MAX SYSTEM VOLTAGE	1500.00	
	MAX SERIES FUSE [OCVP] (A)	0.00	
	MAX POWER DC STC (W)	545.00	
	NOMINAL POWER DC PTC (W)	-	
Voc TEMP COEFFICIENT (K ⁻¹)	-0.28		
GROUNDING CONDUCTOR	0.70		

MAXIMUM STRING OPEN CIRCUIT VOLTAGE				
MODULE Voc	MOD PER STRING	LOWEST TEMP	MODULE %Voc/C	MAX STRING Voc
50.0	28	-19	-0.28	1458

SYSTEM INFORMATION	
Total Number of Modules	249,600
Modules Per String	28
Total Number of Strings	9,600
System Size DC STC (kW)	136,032.00
System Size AC Field (kW)	117,600.00
System Size AC POI (kW)	100,000.00

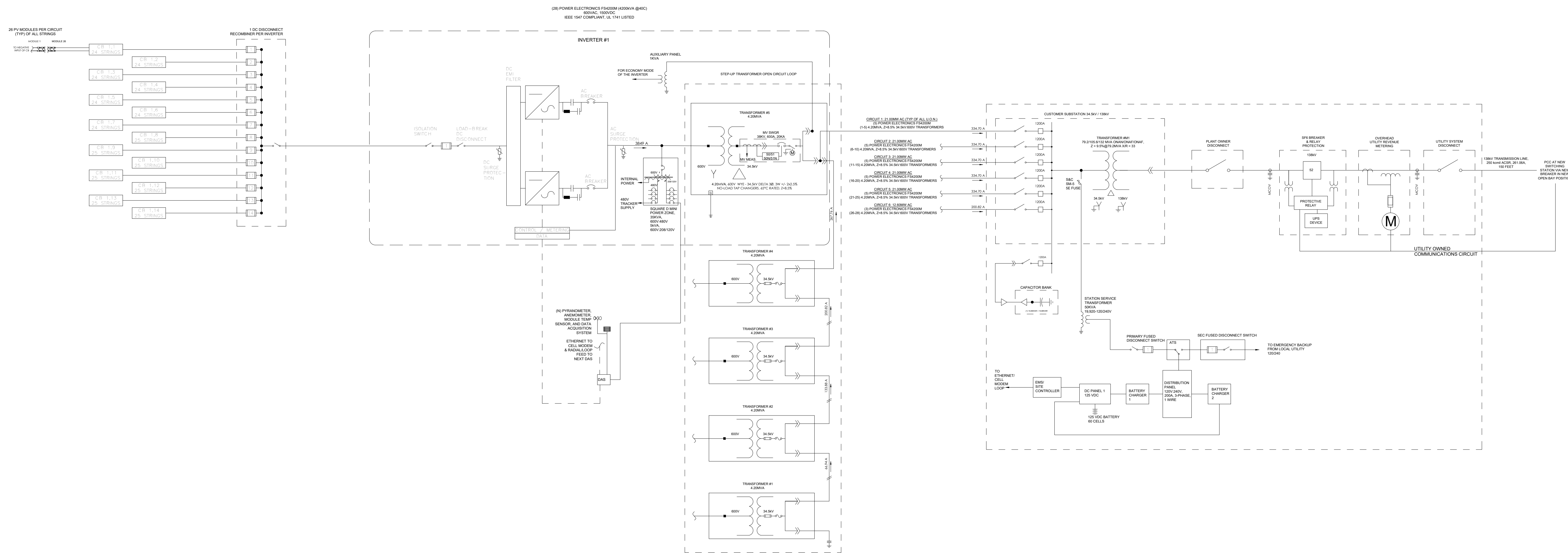


BayWa r.e. Solar Projects LLC

18575 Jamboree Road, Suite 850
Irvine, CA 92612
Phone: 949.771.2976 | Fax: 949.398.3914
www.baywa-r.e.us

PROJECT DIRECTOR

PROJECT ENGINEER
ANDREA PARRA
(52) 1-81-2071-3210



NO.	ISSUE	DATE
1.	PRELIMINARY	02.01.22

PROJECT NUMBER
DRAWN BY LR
REVIEWED BY DC
APPROVED BY

BLUEBIRD
100 MW-AC
HARRISON COUNTY,
KY 41031

SINGLE LINE
DIAGRAM
DRAWING
NUMBER PV-E1.02

SHEET SIZE: ARCH D - 24' x 36'

Data Request SITING BOARD_1_19:

Reference Appendix B of the Site Assessment Report (SAR). Explain whether the transmission line connecting the switching station and the existing utility substation is a part of the project.

Response: As a point of clarification, the project is not connecting to an existing utility substation. EKPC will build a utility substation to connect the project to the transmission line. This transmission line will be considered part of the project until the physical location of the point of change in ownership, which is currently contemplated to be the last upright pole before the utility substation. After the last upright pole before the substation, EKPC will retain ownership of the transmission line.

Witness: Clay Canning

Data Request SITING BOARD_1_20:

Provide information on the specifications, model number, and cutsheets of the photovoltaic (PV) cell/solar panels to be used.

Response: The selected PV module is JA Solar JAM72D30-545/MB and is subject to change as the procurement is finalized.

See attached Cutsheets Specifications: "JAM72D30 525-550 MB
Global_EN_20201207A," BSLLC_R_SITING BOARD_1_20_Attachment.

Witness: Clay Canning

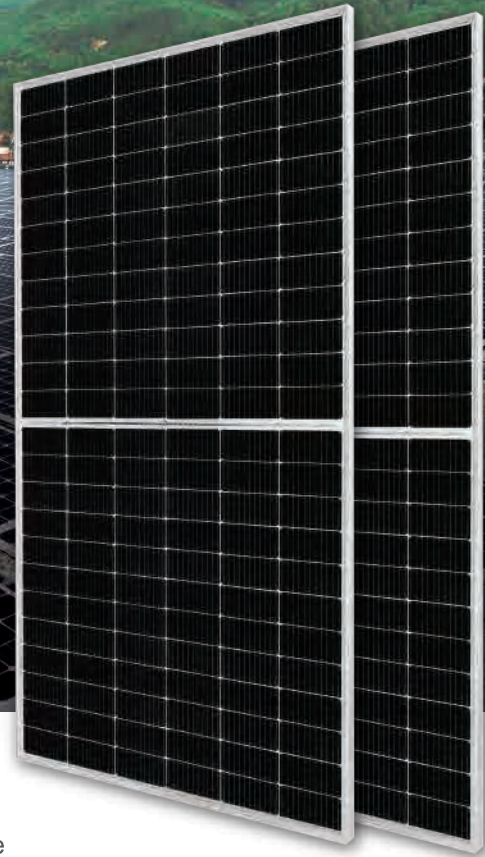
DEEP BLUE 3.0

Mono

**550W MBB Bifacial Mono PERC
Half-cell Double Glass Module**
JAM72D30 525-550/MB Series

Introduction

Assembled with 11BB bifacial PERCUM cells and half-cell configuration, these double glass modules have the capability of converting the incident light from the rear side together with the front side into electricity, providing higher output power, lower temperature coefficient, less shading loss, as well as enhanced tolerance for mechanical loading.



Higher output power



More reliable, more stable power generation



Less shading effect

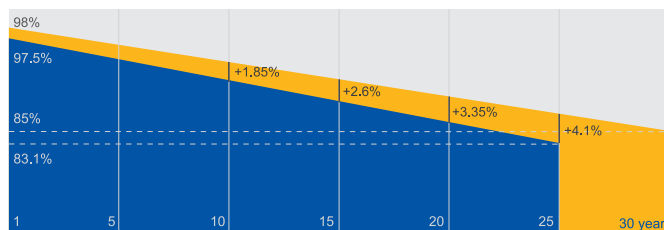


Lower temperature coefficient

Superior Warranty

- 12-year product warranty
- 30-year linear power output warranty

0.45% Annual Degradation Over 30 years



■ Bifacial double glass module linear power warranty

■ Standard module linear power warranty

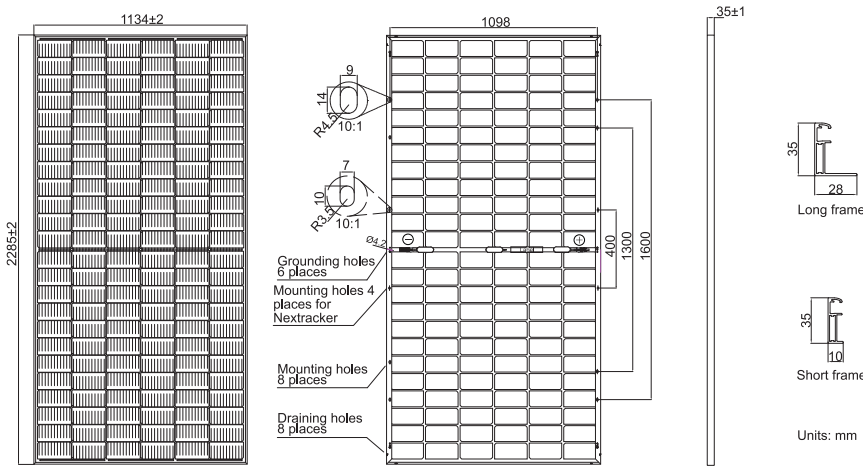
Comprehensive Certificates

- IEC 61215, IEC 61730, UL 61215, UL 61730
- ISO 9001: 2015 Quality management systems
- ISO 14001: 2015 Environmental management systems
- ISO 45001: 2018 Occupational health and safety management systems
- IEC TS 62941: 2016 Terrestrial photovoltaic (PV) modules – Guidelines for increased confidence in PV module design qualification and type approval



MECHANICAL DIAGRAMS

SPECIFICATIONS



Cell	Mono
Weight	31.6kg±3%
Dimensions	2285±2mm×1134±2mm×35±1mm
Cable Cross Section Size	4mm ² (IEC), 12 AWG(UL)
No. of cells	144(6×24)
Junction Box	IP68, 3 diodes
Connector	QC 4.10-35
Cable Length (Including Connector)	Portrait:300mm(+)/400mm(-); Landscape:1300mm(+)/1300mm(-)
Front Glass/Back Glass	2.0mm/2.0mm
Packaging Configuration	31pcs/Pallet, 620pcs/40ft Container

Remark: customized frame color and cable length available upon request

ELECTRICAL PARAMETERS AT STC

TYPE	JAM72D30 -525/MB	JAM72D30 -530/MB	JAM72D30 -535/MB	JAM72D30 -540/MB	JAM72D30 -545/MB	JAM72D30 -550/MB
Rated Maximum Power(Pmax) [W]	525	530	535	540	545	550
Open Circuit Voltage(Voc) [V]	49.15	49.30	49.45	49.60	49.75	49.90
Maximum Power Voltage(Vmp) [V]	41.15	41.31	41.47	41.64	41.80	41.96
Short Circuit Current(Isc) [A]	13.65	13.72	13.79	13.86	13.93	14.00
Maximum Power Current(Imp) [A]	12.76	12.83	12.90	12.97	13.04	13.11
Module Efficiency [%]	20.3	20.5	20.6	20.8	21.0	21.2
Power Tolerance	0~+5W					
Temperature Coefficient of Isc(α _{Isc})	+0.045%/°C					
Temperature Coefficient of Voc(β _{Voc})	-0.275%/°C					
Temperature Coefficient of Pmax(γ _{Pmp})	-0.350%/°C					
STC	Irradiance 1000W/m ² , cell temperature 25°C, AM1.5G					

Remark: Electrical data in this catalog do not refer to a single module and they are not part of the offer.They only serve for comparison among different module types.

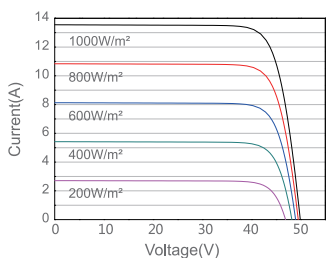
**ELECTRICAL CHARACTERISTICS WITH DIFFERENT POWER RANGES
(REFERENCE TO 10% SOLAR ILLUMINANCE RATIO)**

OPERATING CONDITIONS

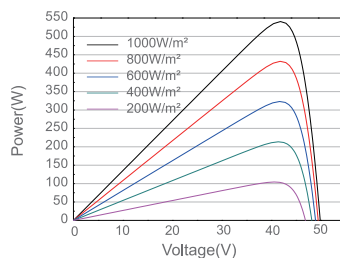
TYPE	JAM72D30 -525/MB	JAM72D30 -530/MB	JAM72D30 -535/MB	JAM72D30 -540/MB	JAM72D30 -545/MB	JAM72D30 -550/MB		
Rated Max Power(Pmax) [W]	562	567	572	578	583	589	Maximum System Voltage	1500V DC
Open Circuit Voltage(Voc) [V]	49.54	49.67	49.80	49.93	50.03	50.21	Operating Temperature	-40°C~+85°C
Max Power Voltage(Vmp) [V]	41.53	41.77	41.99	42.24	42.43	42.67	Maximum Series Fuse Rating	30A
Short Circuit Current(Isc) [A]	14.34	14.39	14.45	14.50	14.56	14.63	Maximum Static Load,Front* Maximum Static Load,Back*	5400Pa(112 lb/ft ²) 2400Pa(50 lb/ft ²)
Max Power Current(Imp) [A]	13.52	13.58	13.63	13.69	13.74	13.79	NOCT	45±2°C
*For NexTracker installations, Maximum Static Load, Front is 2400Pa while Maximum Static Load, Back is 2400Pa. **Bifaciality=Pmax,rear/Rated Pmax,front							Bifaciality**	70%±10%
							Fire Performance	UL Type 29

CHARACTERISTICS

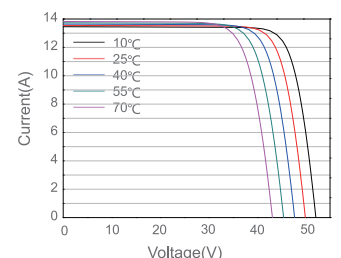
Current-Voltage Curve JAM72D30-540/MB



Power-Voltage Curve JAM72D30-540/MB



Current-Voltage Curve JAM72D30-540/MB



Data Request SITING BOARD_1_21:

Provide information on where the PV cells/solar panels and the plant equipment are manufactured.

Response: The planned PV cells for the project are manufactured in Vietnam and the inverters are manufactured in Thailand.

Witness: Clay Canning

Data Request SITING BOARD_1_22:

Provide information on the temporary power required for construction of the plant.

Response: The project will likely use a temporary power service drop and meter from Blue Grass Energy for construction.

Witness: Clay Canning

Data Request SITING BOARD_1_23:

Identify whether storage is being used and provide safety data sheets/cutsheets for any proposed energy storage system.

Response: Storage is not currently planned for the project.

Witness: Clay Canning

Data Request SITING BOARD_1_24:

Provide information on the environmental impact the of the energy storage system.

Response: Storage is not currently planned for the project.

Witness: Clay Canning

Data Request SITING BOARD_1_25:

If batteries are to be used for energy storage, provide the life expectancy of the batteries.

Response: Storage is not currently planned for the project.

Witness: Clay Canning

Data Request SITING BOARD_1_26:

Explain whether the batteries will be recycled. If not, explain how the batteries will be disposed.

Response: Storage is not currently planned for the project.

Witness: Clay Canning

Data Request SITING BOARD_1_27:

Provide information on any fiber optic or communication network installed as a part of the project and any excavation that may be required for the installation.

Response: A multi-mode fiber optic backbone will be installed underground in an open loop design throughout the site, connecting each inverter and transformer skid to the power plant controller managing the SCADA network at the substation control building. Cables will be laid in trenches along with MV circuits.

Witness: Clay Canning

Data Request SITING BOARD_1_28:

Provide a schedule for the project, starting from the receipt of the proposed certificate for construction to the completion of the project, and including the length of each construction phase.

Response: An indicative schedule is shown below. The schedule will be finalized after the selection of the construction contractor.

Mobilization	October 2022
Civil Work	December 2022 – March 2023
Pile Driving	January 2023 – May 2023
Module Install	May 2023 – January 2024
Commissioning	January 2024 – March 2024
Commercial Operation	June 2024

Witness: Clay Canning

Data Request SITING BOARD_1_29:

Provide information about the existing and proposed utilities for the plant and for service to the proposed facility buildings.

Response: Bluebird does not anticipate the need for auxiliary power from a retail provider. If required, the project will receive auxiliary power from the local utility, Blue Grass Energy. Retail water is not planned for the site, but, if required, the project will contact the local utility to receive service.

Witness: Clay Canning

Data Request SITING BOARD_1_30:

Provide Department of Energy transformer compliance for Substation Transformers.

Response: As defined in the Code of Federal Regulations (CFR), “distribution transformer” means a transformer that (1) has an input voltage of 34.5 kV or less; (2) has an output voltage of 600 V or less; (3) is rated for operation at a frequency of 60 Hz; and (4) has a capacity of 10 kVA to 2500 kVA for liquid-immersed units and 15 kVA to 2500 kVA for dry-type units. The term “distribution transformer” does not include a transformer that is an: autotransformer; drive (isolation) transformer; grounding transformer; machine-tool (control) transformer; nonventilated transformer; rectifier transformer; regulating transformer; sealed transformer; special-impedance transformer; testing transformer; transformer with tap range of 20 percent or more; uninterruptible power supply transformer; or welding transformer. 10 CFR 431.192.

Manufacturers have been required to comply with the U.S. Department of Energy (DOE) energy conservation standards for distribution transformers since 2007, this includes Virginia Transformer Corporation, Bluebird’s currently selected manufacturer.

Witness: Clay Canning

Data Request SITING BOARD_1_31:

Refer to the Application, Attachment A. The map shows the project in three distinct areas separated by land that is not a part of the project.

- a. Provide information on how the three areas will be interconnected.
- b. Explain whether easements have been sought or granted for the interconnection of the three areas.
- c. Provide information on regulations for this interconnection.
- d. Provide information on how the interconnection will impact the surrounding areas.

Response:

- a. Bluebird plans to connect each area with medium voltage cabling that will be trenched underground.
- b. Participating landowners have granted easements that will allow the interconnection of both areas.
- c. Bluebird included the collection cabling in its Conditional Use Permit Filing, and Bluebird will include the collection cabling in the final building permit for the site.
- d. The collection cabling will not impact the surrounding areas. It will be buried underground and not visible.

Witness: Clay Canning

Data Request SITING BOARD_1_32:

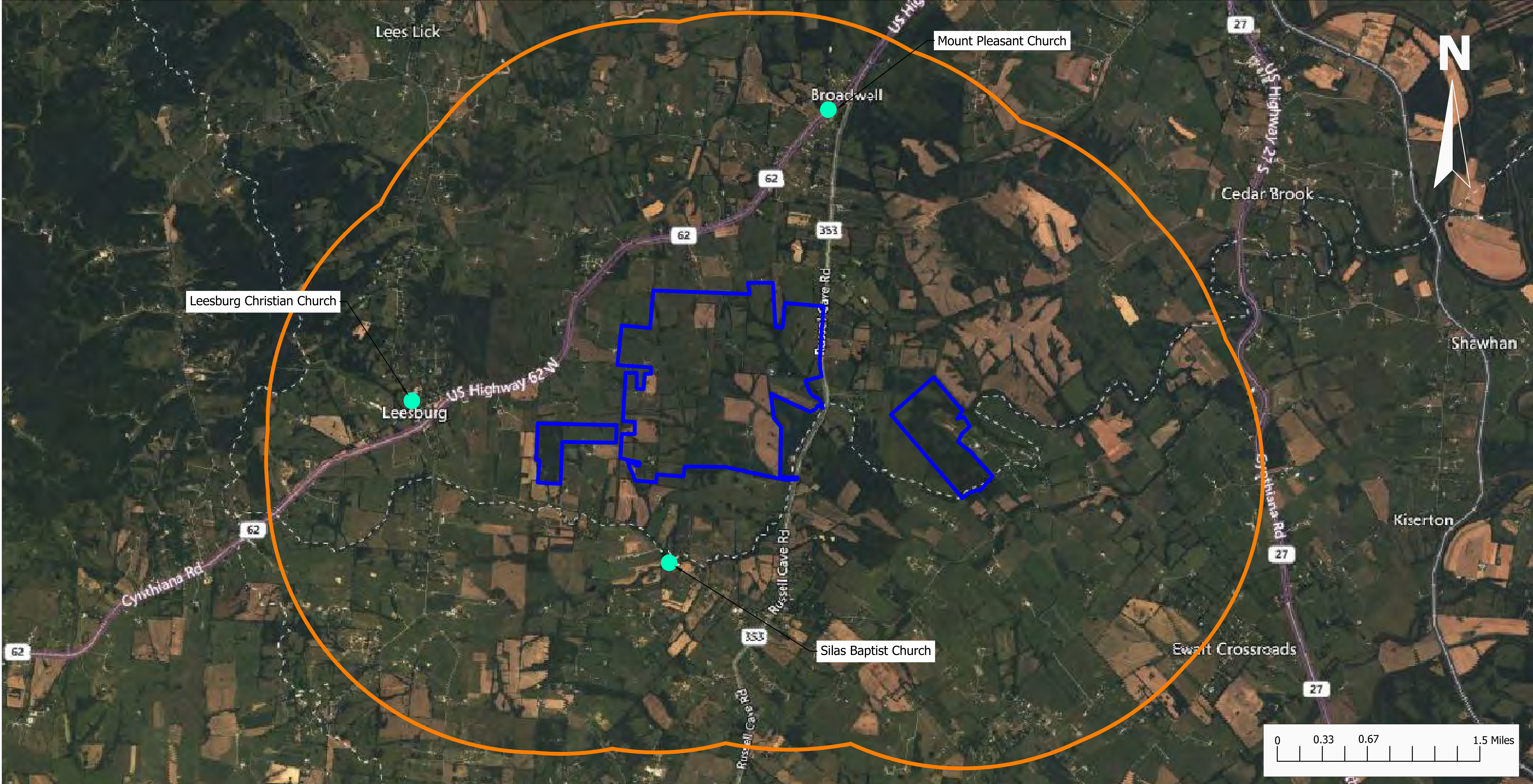
Provide information as to whether there are any churches located within two miles of the project's boundary.

Response: Three churches are within two miles of the project's boundary: Silas Baptist Church, Leesburg Christian Church, and Mount Pleasant Church. Silas Baptist Church is a participating landowner in the project.

See attached Bluebird Siting Boundary Map: "EKPC/Bluebird Solar Project Boundary Map," BSLLC_R_SITING BOARD_1_32_Attachment.

Witness: Clay Canning

EKPC/Bluebird Solar Project Boundary Map



Legend

- Churches
- Property Line - 2 Mi Buffer
- Property Line

Map Information

County: Harrison
State: Kentucky
Map Date: 4/7/2022
Spatial Reference: NAD 1983 StatePlane Kentucky North FIPS 1601 (US Feet)



Data Request SITING BOARD_1_33:

Refer to the Application, Attachment C, page 63. Provide the guidelines used for the Running Buffalo Clover survey.

Response: Bluebird used the Species Survey Guidelines for Running Buffalo Clover USFWS (May 3, 2018) as the framework for its Running Buffalo Clover survey. As of September 2021, the USFWS delisted and removed Running Buffalo Clover from the list of endangered and threatened wildlife and plants protected under the Endangered Species Act ("ESA").

Witness: Shane Roberts

Data Request SITING BOARD_1_34:

Refer to the Application, Attachment C, page 50. Provide the guidelines used for the Short's Goldenrod survey.

Response: The USFWS has not published an official Short's Goldenrod Survey. The Jackson Group provided the USFWS survey approach for the species, and the USFWS subsequently approved it on October 21, 2019.

Witness: Shane Roberts

Data Request SITING BOARD_1_35:

Refer to the Application, Attachment C, page 3. Provide any additional surveys to be done to identify endangered bats in the project vicinity.

Response: No additional surveys are required to identify endangered bat species. The USFWS approved the bat survey study plan on July 10, 2020. On September 1, 2020, the USFWS approved the completed bat survey, and it is valid for a period of 5 years.

Witness: Shane Roberts

Data Request SITING BOARD_1_36:

Refer to the SAR, Appendix D, page 9. Provide the information on the selection of noise sensitive receptors.

Response: Bluebird selected potential noise sensitive receptors for noise modeling with up to 3,000-foot buffer from the project boundary. Bluebird used Google Earth Pro to analyze high resolution aerial photography, Google Street view photos, and proposed site layouts to determine the presence of potential noise sensitive receptors that exist outside the project boundary. The selected receptors are all dwelling units; Bluebird did not observe any schools, childcare centers, outdoor recreation, medical centers, or other types of noise sensitive receptors.

Witness: David Shu

Data Request SITING BOARD_1_37:

Refer to the SAR, page 6. Provide information used for the analysis on fugitive dust for the construction and operation phases of the project.

Response: Bluebird will utilize Best Management Practices (BMPs) as needed to maintain control of fugitive dust. Bluebird will monitor roads and disturbed areas likely to generate dust for fugitive dust and will water them on an as-needed basis, in compliance with KPDES standards. Bluebird will take other measures, such as covering open-bodied trucks that transport dirt, appropriate revegetation measures, and covering spoil piles, as appropriate and as the design drawings and specifications dictate.

Witness: James Cox

Data Request SITING BOARD_1_38:

Provide information on the impacts of the project on ground water or surface water.

Response: Bluebird expects negligible effects to surface water resulting from the project construction due to the development and implementation of the best management practices (BMPs) as described in the Cumulative Environmental Assessment. Operation and maintenance of the solar facility will have little impact on surface water due to the implementation of BMPs that will be used during and prior to maintenance activities that have the potential to cause runoff of sediment and pollutants. Further, the conversion of existing crop and pastureland to the site of solar panels will eliminate animal wastes, high-intensity fertilizer, and herbicide, commonly used with crop production and livestock management.

Bluebird does not anticipate any direct adverse impacts to groundwater as a result of the Project.

Witness: Shane Roberts

Data Request SITING BOARD_1_39:

Refer to the SAR, page 7. Provide the stormwater management plan that is referenced.

Response: Bluebird will complete the stormwater management plan, in compliance with KPDES requirements, prior to construction. It is not yet available.

Witness: Clay Canning

Data Request SITING BOARD_1_40:

Refer to the SAR, Appendix A.

- a. Provide whether the Appraiser visited the site in person.
- b. Provide information on the legal proceedings referenced in the study.
- c. Provide information on the potential residential development surrounding the project.
- d. Provide information for potential change in the best use of properties around the project.
- e. Provide information on platted residential lots around the project.

Response:

- a. Richard Kirkland, the appraiser of this project, visited the site on May 24, 2021, on the way to the Harrison County Board of Adjustment meeting.
- b. Legal proceedings referenced in the study that support Bluebird's findings/methodology are *Dellinger v. Lincoln County*, 789 S.E.2d 21 (2016), and *Ecoplexus Inc. v. County of Currituck, Board of Commissioners*, 809 S.E.2d 148 (2017).
- c. Bluebird is not aware of potential residential developments around the project site.
- d. Mr. Kirkland does not anticipate any potential change in the highest and best use for the adjoining parcels unless it is to suggest sooner residential development as homes that back up to the landscaped buffer are doing well in rural areas and cited by purchasers of homes next to those buffers as protection from adjacent development which provides increased privacy.

- e. Please see Mr. Kirkland's report, filed as Appendix A to the Site Assessment Report, at page 6.

See attached orders from the referenced legal proceedings in 40(b): "Dellinger v. Lincoln County and Ecoplexus Inc. v. County of Currituck, Board of Commissioners," BSLLC_R_SITING BOARD_1_40_Attachment.

Witness: Richard Kirkland

Dellinger v. Lincoln County, 789 S.E.2d 21 (2016)

789 S.E.2d 21
Court of Appeals of North Carolina.

Gary DELLINGER, Virginia Dellinger, and
Timothy S. Dellinger, Petitioners,
v.
LINCOLN COUNTY, Lincoln County Board of
Commissioners, and [Strata Solar, LLC](#),
Respondents,
and
Timothy P. Mooney, Martha McLean, and [the
Sailview Owners Association](#), Intervenor
Respondents.

No. COA15-1370.
|
July 19, 2016.

Synopsis

Background: Property owners petitioned for certiorari review of decision of county board of commissioners denying tenant's application for conditional use permit to install solar energy facility. The Superior Court, Lincoln County, reversed and remanded. On remand, the Board again denied application. Owners petitioned for review. The Superior Court, Lincoln County, [Yvonne Mims Evans, J.](#), affirmed. Petitioners appealed.

Holdings: The Court of Appeals, [Tyson, J.](#), held that:

[1] tenant produced competent, substantial, and material evidence that established prima facie case of entitlement to permit;

[2] board members who had not sat on board when it held first hearing on application for conditional use permit were competent to consider application on remand;

[3] applicant was not required to prove beyond a reasonable doubt that proposed installation of solar energy facility would not substantially injure value of adjoining or abutting property, nor carried burden of persuasion once it produced competent, material, and substantial evidence to establish prima facie case of entitlement to permit.

Affirmed in part; reversed in part; remanded.

West Headnotes (16)

[1] **Zoning and Planning**

🔑 Nature of power

A legislative body such as county board of commissioners, when granting or denying a conditional use permit, sits as a quasi-judicial body.

[2 Cases that cite this headnote](#)

[2] **Zoning and Planning**

🔑 Certiorari

Decisions of county board of commissioners with respect to grant or denial of land use permits shall be subject to review of the superior court in the nature of certiorari, in which the superior court sits as an appellate court, and not as a trier of facts. West's [N.C.G.S.A. § 160A-381\(c\)](#).

[Cases that cite this headnote](#)

[3] **Constitutional Law**

🔑 Proceedings and review

Zoning and Planning

🔑 Permits, certificates, and approvals in general

Role of superior court in reviewing decision of a county board of commissioners, sitting as a quasi-judicial body, on a land use permit, is defined as follows: (1) reviewing record for errors in law, (2) insuring that procedures specified by law in both statute and ordinance are followed, (3) insuring that appropriate due process rights of a petitioner are protected including right to offer evidence, cross-examine witnesses, and inspect documents, (4) insuring that decisions of town boards are supported by competent, material and substantial evidence in the whole record, and (5) insuring that decisions

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are not arbitrary and capricious. U.S.C.A. Const.Amend. 14; West's N.C.G.S.A. § 160A-381(c).

[1 Cases that cite this headnote](#)

[4] **Zoning and Planning**
🔑 Scope and Extent of Review

Task of the Court of Appeals on review of superior court's order on appeal from decision of county board of commissioners on an application for a land use permit is twofold: (1) determining whether superior court exercised appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly.

[Cases that cite this headnote](#)

[5] **Zoning and Planning**
🔑 Questions of fact; findings

In reviewing, at the appellate level, the sufficiency and competency of the evidence in support of a decision by the board of commissioners on an application for a land use permit, the question is not whether the evidence before the superior court supported that court's order but whether the evidence before the board was supportive of its action.

[Cases that cite this headnote](#)

[6] **Zoning and Planning**
🔑 De novo review in general
Zoning and Planning
🔑 De novo review

When a party alleges county board of commissioners' decision on an application for a land use permit was based upon an error of law, both superior court, sitting as an appellate court, and Court of Appeals reviews matter de novo,

considering the matter anew.

[Cases that cite this headnote](#)

[7] **Zoning and Planning**
🔑 Permits, certificates, and approvals

When a party challenges sufficiency of evidence to support ruling of county board of commissioners on an application for a land use permit, or when board's decision is alleged to have been arbitrary and capricious, Court of Appeals employs "whole record test," which requires reviewing court to examine all competent evidence, i.e., the whole record, to determine whether agency decision is supported by substantial evidence.

[2 Cases that cite this headnote](#)

[8] **Zoning and Planning**
🔑 Permits, certificates, and approvals

On appeal from decision of county board of commissioners on an application for a land use permit, reviewing court should not replace board's judgment as between two reasonably conflicting views; while record may contain evidence contrary to findings of agency, court may not substitute its judgment for that of agency.

[Cases that cite this headnote](#)

[9] **Zoning and Planning**
🔑 Other particular uses

Tenant produced competent, substantial, and material evidence tending to show that proposed installation of solar energy facility would not substantially injure value of adjoining or abutting property, as required to be entitled to conditional use permit; expert in real estate appraisal opined that proposed solar farm would

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be in harmony with area and would not substantially injure value of adjoining or abutting properties, opinion was based on market review and analysis of paired and matched sales of real property that adjoined solar farm, and another expert in real estate appraisal testified that subdivision was designed and landscaped to form “an insulated enclave,” that location of proposed solar farm was isolated from other properties and developments in area and would likely not be visible from road or by residents or visitors from within subdivision, due to multiple layers of landscaping and fencing, and that he reviewed seven different solar farms in area to look for information that showed significant or any deleterious effect on properties and found no such evidence.

[Cases that cite this headnote](#)

[10] **Zoning and Planning**
🔑 Evidence and fact questions

When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a prima facie showing of entitlement to a permit.

[1 Cases that cite this headnote](#)

[11] **Evidence**
🔑 Sufficiency to support verdict or finding

“Material evidence” must do more than create the suspicion of the existence of the fact to be established; it must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.

[Cases that cite this headnote](#)

[12] **Zoning and Planning**

🔑 Evidence and fact questions

When an applicant has established a prima facie case of entitlement to a conditional use permit, the denial of the permit should be based upon findings contra which are supported by competent, material, and substantial evidence appearing in the record.

[Cases that cite this headnote](#)

[13] **Zoning and Planning**
🔑 De novo review in general

Whether competent, material and substantial evidence tending to establish the existence of the facts and conditions which the ordinance requires for the issuance of a special use permit is present in the record is a conclusion of law, and the appellate court reviews de novo the initial issue of whether the evidence presented by the applicant met the requirement of being competent, material, and substantial.

[Cases that cite this headnote](#)

[14] **Zoning and Planning**
🔑 Permits, certificates, and approvals

The Board of Commissioners’ ultimate decision about how to weigh the evidence in support of an application for a special land use permit is subject to “whole record” review.

[Cases that cite this headnote](#)

[15] **Zoning and Planning**
🔑 Voting; bias and disqualification

Members of county board of commissioners who had not sat on board when commissioners held first hearing on application by property owners’ tenant for conditional use permit to install solar energy facility were competent to


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consider application on remand from superior court's order reversing board's denial of application, where new board member had opportunity to read and review all of evidence previously considered, and change in board composition had no effect on applicant's ability to present its argument in support of application.

[Cases that cite this headnote](#)

[16]

Zoning and Planning

 Evidence and fact questions

On application for conditional use permit to install solar energy facility, applicant was not required to prove beyond a reasonable doubt that proposed installation of solar energy facility would not substantially injure value of adjoining or abutting property, in accordance with ordinance, nor did applicant carry burden of persuasion once it produced competent, material, and substantial evidence to establish prima facie case of entitlement to permit; rather, once it met its prima facie burden of production, burden shifted to challengers to present competent, substantial, and material evidence to rebut applicant's entitlement to permit.

[Cases that cite this headnote](#)

*23 Appeal by petitioners from order entered 17 July 2015 by Judge Yvonne Mims Evans in Lincoln County Superior Court. Heard in the Court of Appeals 24 May 2016. Lincoln County, No. 15 CVS 00384.

Attorneys and Law Firms

Sigmon, Clark, Mackie, Hanvey & Ferrell, P.A., Hickory, by [Forrest A. Ferrell](#) and [Jason White](#), for petitioners-appellants.

Scarborough & Scarborough, PLLC, Concord, by James E. Scarborough and *24 John F. Scarborough, for intervenor respondents-appellees.

Opinion

TYSON, Judge.

Gary Dellinger, Virginia Dellinger, and Timothy S. Dellinger (collectively, "the Dellingers" or "Petitioners") appeal from order affirming the decision of the Lincoln County Board of Commissioners ("the Board") to deny Strata Solar, LLC's application for a conditional use permit. We affirm in part, reverse in part, and remand.

I. Factual Background

The Dellingers own three tracts of real property in Denver, Lincoln County, North Carolina, which total approximately fifty-four acres. In May 2013, the Dellingers contracted with Strata Solar, LLC ("Strata Solar") for it to lease a portion of their property for the installation and operation of a solar energy facility. The Dellingers' property was zoned for residential-single family use ("R-SF") under the Lincoln County Unified Development Ordinance ("the Ordinance"). The properties directly adjoining or abutting the Dellingers' property are zoned as planned development-residential ("PD-R") and general industrial ("I-G").

The Ordinance schedules the operation of a solar energy farm as a permitted use on properties with this zoning classification, upon application for a conditional use permit. According to the Ordinance, an applicant for a conditional use permit must meet four conditions:

- (1) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan;
- (2) The use meets all required conditions and specifications;
- (3) The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity; and
- (4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the approved Land Development Plan for the area in question.

On 23 July 2013, Strata Solar filed its conditional use permit application to construct a solar energy facility on a 35.25-acre portion of the land owned by the Dellingers. Strata Solar presented evidence in support of its application to the Lincoln County Planning Board during

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quasi-judicial hearings conducted on 9 September and 25 November 2013. The Lincoln County Planning Director reviewed the application, found it satisfied the four conditions, and recommended issuance of the permit. The Lincoln County Planning Board voted 4-4 on its recommendation to the Board of Commissioners for the conditional use permit.

On 2 December and 16 December 2013, the Board of Commissioners held quasi-judicial hearings for consideration of and a final determination on Strata Solar's application. One commissioner recused himself from the vote. Twenty-four witnesses testified at the 2 December hearing.

The hearing resumed on 16 December, and after the testimony and evidence was presented, the Board of Commissioners voted 3 to 1 to deny Strata Solar's application. The Board concluded Strata Solar had met the first two conditions in order to issue the conditional use permit. However, the Board voted against Strata Solar's application on not meeting the third and fourth conditions: (3) "[t]he use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity;" and, (4) "[t]he location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located and will be in general conformity with the approved Land Development Plan for the area in question."

The Dellingers filed a Notice of Appeal and Petition for Writ of Certiorari in the Lincoln County Superior Court on 17 January 2014. The superior court also entered an order, which permitted property owners Timothy P. Mooney, George Gerard Arena, Martha McLean, and the Sailview Owners Association (collectively, "Intervenors-Respondents") to intervene in this action. One of the intervenors, George Gerard Arena, subsequently took a voluntary dismissal and *25 withdrew from the case, after he sold his residence within the Sailview subdivision during the pendency of the action. No evidence was presented on the value of, or factors surrounding, this sale within Sailview.

On 7 August 2014, the superior court entered an order limiting the Dellingers' appeal to exclude "matters that could have been raised at the quasi-judicial hearing." The superior court concluded:

The Petitioners, [the Dellingers,] by their failure to participate in the quasi-judicial hearing, waived their rights on appeal to complain of or

object to those issues which could have been raised in the quasi-judicial hearing such that the scope of review is now limited to whether the Lincoln County Board of Commissioners' decision was supported by substantial competent evidence in view of the entire record and/or whether the Board's decision was arbitrary or capricious using the "whole record" test.

The Dellingers' appeal was heard on 26 January 2015. The superior court entered a written order on 25 February 2015, in which the court concluded it was "unable to determine whether the Board's decision on the third requirement was supported or unsupported by substantial competent evidence in view of the entire record." The superior court also held "[t]he Board did not make sufficient findings of fact regarding the third requirement," and "remand[ed] the matter to the Board for additional findings of fact regarding its decision to find in the negative as to the third requirement that 'the use will not substantially injure the value of adjoining property unless the use is a public necessity.' "

The superior court also reversed the Board's decision concerning Strata Solar's compliance with the fourth condition. The superior court concluded: "After reviewing the entire record, ... there is not substantial evidence to support the Board's decision that the use is not in harmony with the area." This ruling on Strata Solar's compliance with the fourth condition was not appealed from, and is binding upon all parties.

Following the superior court's remand, the matter came before the Board of Commissioners for the second time on 16 March 2015. No new testimony or additional evidence was taken. The membership of the Board had changed to include two new members since the initial decision was rendered on 16 December 2013.

The Chair of the Board had originally recused himself, and did so once again. New Commissioner Beam, the Vice-Chair, also recused himself, against the advice of the County Attorney, and stated he was not a member of the Board when it issued its original decision. Commissioner Martin Oakes ("Commissioner Oakes"), another new member of the Board, stated he had reviewed the entire record of the prior proceedings and participated in the 16 March vote.

The Board voted 2 to 1 to deny the conditional use permit application in a written decision dated 20 March 2015.

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The Dellingers filed a second Notice of Appeal and Petition for Writ of Certiorari. The Lincoln County Superior Court issued a second writ of certiorari on 16 April 2015. The superior court permitted the Intervenor-Respondents to intervene in the second action by order entered 8 June 2015.

The Dellingers' appeal was heard on 26 May 2015. The superior court entered its Decision on Appeal on 17 July 2015, which affirmed the Board's denial of the conditional use permit. The Dellingers gave timely notice of appeal to this Court. While Lincoln County and its Board of Commissioners are listed as party-defendants, neither filed a brief on appeal nor was either entity represented during oral arguments before this Court.

II. Issues

The Dellingers argue the superior court erred by affirming the Board's decision because: (1) the application for a conditional use permit was supported by competent, material, and substantial evidence; (2) the Board erred by allowing Commissioner Oakes to participate in the hearing and vote, and by requiring an improper burden of proof; and, (3) the Board's denial of the conditional use permit was not supported by competent, material, and substantial evidence.

*26 III. Standard of Review

[1] "A legislative body such as the Board, when granting or denying a conditional use permit, sits as a quasi-judicial body." *Sun Suites Holdings, LLC v. Bd. of Aldermen of Town of Garner*, 139 N.C.App. 269, 271, 533 S.E.2d 525, 527, *disc. review denied*, 353 N.C. 280, 546 S.E.2d 397 (2000).

Our Supreme Court has recognized, "[d]ue process requirements mandate that certain *quasi-judicial* [land use] decisions comply with all fair trial standards when they are made." *County of Lancaster v. Mecklenburg Cty.*, 334 N.C. 496, 506, 434 S.E.2d 604, 611 (1993) (emphasis supplied). In addition to prior notice and an impartial decision-maker, our Supreme Court has explained these "fair trial standards" also include "an evidentiary hearing with the right of the parties to offer evidence; cross-examine adverse witnesses; inspect documents; have sworn testimony; and have written findings of fact supported by competent, substantial, and material

evidence." *Id.* at 507–08, 434 S.E.2d at 612 (citations omitted).

[2] The Board's decisions "shall be subject to review of the superior court in the nature of certiorari[.]" N.C. Gen.Stat. § 160A–381(c) (2015), in which "the superior court sits as an appellate court, and not as a trier of facts." *Tate Terrace Realty Inv'rs, Inc. v. Currituck Cty.*, 127 N.C.App. 212, 217, 488 S.E.2d 845, 848 (citation omitted), *disc. review denied*, 347 N.C. 409, 496 S.E.2d 394 (1997).

[3] The role of the superior court in reviewing the decision of a Board of Commissioners, sitting as a quasi-judicial body, has been defined as follows:

- (1) Reviewing the record for errors in law,
- (2) Insuring that procedures specified by law in both statute and ordinance are followed,
- (3) Insuring that appropriate due process rights of a petitioner are protected including the right to offer evidence, cross-examine witnesses, and inspect documents,
- (4) Insuring that decisions of town boards are supported by competent, material and substantial evidence in the whole record, and
- (5) Insuring that decisions are not arbitrary and capricious.

Coastal Ready-Mix Concrete Co., Inc. v. Bd. of Comm'rs of Town of Nags Head, 299 N.C. 620, 626, 265 S.E.2d 379, 383, *reh'g denied*, 300 N.C. 562, 270 S.E.2d 106 (1980).

[4] [5] "This Court's task on review of the superior court's order is twofold: (1) determining whether the trial court exercised the appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly." *SBA, Inc. v. City of Asheville City Council*, 141 N.C.App. 19, 23, 539 S.E.2d 18, 20 (2000) (citations and internal quotation marks omitted).

In reviewing the sufficiency and competency of the evidence at the appellate level, the question is not whether the evidence before the superior court supported that court's order but whether the evidence before the [county] board was supportive of its action. In proceedings of this nature, the

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superior court is not the trier of fact. Such is the function of the [county] board.

resolved in favor of the free use of property.

Coastal Ready-Mix, 299 N.C. at 626, 265 S.E.2d at 383.

[6] When a party alleges the Board of Commissioners' decision was based upon an error of law, both the superior court, sitting as an appellate court, and this Court reviews the matter *de novo*, considering the matter anew. *Humane Soc'y of Moore Cty., Inc. v. Town of S. Pines*, 161 N.C.App. 625, 629, 589 S.E.2d 162, 165 (2003) (citation omitted).

[7] [8] When a party challenges the sufficiency of the evidence or when the Board's decision is alleged to have been arbitrary and capricious, this Court employs the whole record test. "The whole record test requires the reviewing court to examine all competent evidence (the whole record) in order to determine whether the agency decision is supported by substantial evidence." *SBA, Inc.*, 141 N.C.App. at 26, 539 S.E.2d at 22 (citations and internal quotation marks omitted). "The reviewing court should not replace the [Board's] judgment as between two reasonably conflicting views; while the record may contain evidence contrary to the findings of *27 the agency, this Court may not substitute its judgment for that of the agency." *Id.* (citation and internal quotation marks omitted).

Yancey v. Heafner, 268 N.C. 263, 266, 150 S.E.2d 440, 443 (1966) (citation and quotation marks omitted); *see also Vance S. Harrington & Co. v. Renner*, 236 N.C. 321, 324, 72 S.E.2d 838, 840 (1952) ("Every person owning property has the right to make any lawful use of it he sees fit, and restrictions sought to be imposed on that right must be carefully examined..."); *Lambeth v. Town of Kure Beach*, 157 N.C.App. 349, 354, 578 S.E.2d 688, 691 (2003) ("Zoning ordinances derogate common law property rights and must be strictly construed in favor of the free use of property.").

[10] [11] "When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a *prima facie* showing of entitlement to a permit." *Howard v. City of Kinston*, 148 N.C.App. 238, 246, 558 S.E.2d 221, 227 (2002) (citation and internal quotation marks omitted). Material evidence is "[e]vidence having some logical connection with the facts of consequence or the issues." Black's Law Dictionary 638 (9th ed.2009). Substantial evidence is "evidence a reasonable mind might accept as adequate to support a conclusion." *Humane Soc'y of Moore Cty.*, 161 N.C.App. at 629, 589 S.E.2d at 165 (citation and quotation marks omitted). "It must do more than create the suspicion of the existence of the fact to be established. It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury." *Humble Oil & Ref. Co. v. Bd. of Aldermen*, 284 N.C. 458, 471, 202 S.E.2d 129, 137 (1974) (citation, internal quotation marks, and alterations omitted).

IV. Analysis

A. *Strata Solar's Prima Facie Case*

[9] Petitioners first argue the superior court erred by affirming the Board's decision and asserts *Strata Solar's* application for a conditional use permit was supported by competent, substantial, and material evidence. We agree.

Our Supreme Court has stated:

Zoning regulations are in derogation of common law rights and they cannot be construed to include or exclude by implication that which is not clearly their express terms. It has been held that well-founded doubts as to the meaning of obscure provisions of a Zoning Ordinance should be

[12] Our Supreme Court held:

When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions which the ordinance requires for the issuance of a special use permit, *prima facie* he is entitled to it. A denial of the permit should be based upon findings *contra* which are supported by competent, material, and substantial evidence appearing in the record.

Id. at 468, 202 S.E.2d at 136 (citations omitted).

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[13] [14] “[W]hether competent, material and substantial evidence is present in the record is a conclusion of law.” *Clark v. City of Asheboro*, 136 N.C.App. 114, 119, 524 S.E.2d 46, 50 (1999) (internal quotation marks omitted). “[W]e review *de novo* the initial issue of whether the evidence presented by [P]etitioner[s] met the requirement of being competent, material, and substantial. The [county’s] ultimate decision about how to weigh that evidence is subject to whole record review.” *American Towers, Inc. v. Town of Morrisville*, 222 N.C.App. 638, 641, 731 S.E.2d 698, 701 (2012), *disc. review denied*, 366 N.C. 603, 743 S.E.2d 189 (2013). *See also SBA, Inc. v. City of Asheville City Council*, 141 N.C.App. 19, 23–29, 539 S.E.2d 18, 20–24 (2000) (determining petitioner did not present sufficient evidence under *de novo* review and employing whole record test to find respondent properly weighed the evidence before it).

As discussed *supra*, the Ordinance requires an applicant to meet four conditions prior to issuance of a permit. In order for Strata Solar to make a *prima facie* showing of entitlement to a conditional use permit, it *28 was required to present competent, substantial, and material evidence to meet the four conditions enumerated in the Ordinance. There is no dispute on appeal that Strata Solar’s evidence met Conditions (1), (2), and (4) of the Ordinance. We focus our analysis on Condition (3).

We first consider whether Strata Solar made a *prima facie* showing of entitlement to a conditional use permit on Condition (3). At the hearings on 2 and 16 December 2013, the Board of Commissioners heard evidence in favor of and against the application for the conditional use permit for the proposed solar farm.

Strata Solar produced “evidence that a solar farm would not emit noise, odors, or generate traffic, things that are considered to affect or reduce value to neighboring properties.” Strata Solar presented the testimony and report of Richard Kirkland (“Mr. Kirkland”), a licensed and certified real estate appraiser, who has achieved the National Appraisal Institute’s highest designation as a Member of the Appraisal Institute (“MAI”). Mr. Kirkland was tendered and admitted as an expert witness without objection, and testified the proposed solar farm would be in harmony with the area and its presence would not substantially injure the value of adjoining or abutting properties.

Mr. Kirkland’s testimony was based upon his market review and analysis of paired and matched sales of real property, which adjoin a solar farm, in order to determine whether the solar farm’s presence impacted the value of

the adjoining or abutting properties. Mr. Kirkland specifically examined sales of homes in the Spring Garden subdivision, located in Goldsboro, North Carolina. Mr. Kirkland analyzed five sales in Spring Garden—two of which had occurred since the announcement of the solar farm, and three of which occurred after the solar farm was constructed. Of these five homes, four of them “back up to,” *i.e.* “adjoin or abut,” the property hosting the solar farm.

Mr. Kirkland explained the results of the matched pair data analysis demonstrated the properties sold for similar prices both before and after the construction of the solar farm. Mr. Kirkland stated: “The prices being paid for are pretty much what the builder is asking.” Based on these results, Mr. Kirkland testified, in his professional opinion, that proximity to a solar farm did not have a negative impact upon the value of the adjoining or abutting property.

Mr. Kirkland acknowledged the average value of homes in Spring Garden are \$220,000.00 to \$240,000.00, while the houses located within one mile of Strata Solar’s proposed solar facility average more than \$460,000.00. Mr. Kirkland testified he also “looked at some property in Chapel Hill,” where a home which was adjacent to a solar farm was under contract for approximately \$750,000.00, within the same price range of the homes in the Sailview subdivision.

Strata Solar also submitted into the record evidence the sworn affidavit of Mr. Kirkland. In his affidavit, Mr. Kirkland attested, in his professional opinion, “the proposed solar farm will not substantially injure the value of adjoining property and is in harmony with the area in which it is located.” This expert testimony and affidavit were not objected to, were properly admitted into evidence, and constitute competent, material, and substantial evidence to support a *prima facie* showing of Strata Solar’s compliance with Condition 3 of the Ordinance and entitlement to the permit.

Strata Solar also elicited testimony from Damon Bidencope (“Mr. Bidencope”), another licensed and certified real estate appraiser, who had also achieved the MAI designation. Mr. Bidencope testified the Sailview subdivision was designed and landscaped to form “an insulated enclave,” which is isolated from other properties and developments in the area. He also testified the proposed solar facility would likely not be visible to those traveling on Webbs Road, or by residents or visitors from within the Sailview subdivision, due to the multiple layers of landscaping and fencing surrounding the proposed solar farm.

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Mr. Bidencope testified he reviewed seven different solar farms in and around the area “because we were also trying to look and locate information that showed a significant *29 or any deleterious effect on properties. We were unable to find it in our research.”

The Board found Strata Solar had met its “burden of production” but “found the evidence unpersuasive.” The Board denied the conditional use permit and concluded Strata Solar failed to satisfy Condition (3)—that the use would not substantially injure “the value of adjoining or abutting property.” The Board voted 2 to 1 that Strata Solar had failed to make out its *prima facie* case under Condition (3).

The superior court reiterated: “[T]here was not substantial, material and competent evidence submitted by the Applicant, Strata Solar, to support a conclusion that issuance of a conditional use permit would not substantially injure the value of adjoining or abutting property.” In light of the evidence summarized above, we hold that the superior court erred by upholding the Board’s conclusion that Strata Solar failed to present substantial, material, and competent evidence to make a *prima facie* showing it was entitled to issuance of the conditional use permit.

The record shows Strata Solar produced substantial, material, and competent evidence to establish its *prima facie* case of entitlement for issuance of the conditional use permit. We reverse that portion of the superior court’s order, which affirmed the Board’s decision that Strata Solar had failed to present substantial, material, and competent evidence to establish a *prima facie* case of meeting Condition (3) to warrant issuance of the conditional use permit.

*B. Commissioner Martin Oakes’ Participation and
Improper Burden of Proof*

1. Commissioner Oakes’ Participation

[15] Petitioners argue the Board erred by allowing Commissioner Oakes to participate in the Board’s vote on remand, because he was not on the Board when it rendered its original decision to deny issuing Strata Solar’s conditional use permit. We disagree.

In *Brannock v. Zoning Bd. of Adjustment*, 260 N.C. 426,

132 S.E.2d 758 (1963), the petitioners argued a special use permit was improperly granted because, *inter alia*, the membership of the Zoning Board of Adjustment changed between the original hearing and the final approval of the application. In a *per curiam* opinion, our Supreme Court affirmed the grant of the special use permit because “[t]he new members had access to the minutes and records of the various hearings and the required majority participated and joined in all decisions.” *Id.* at 427, 132 S.E.2d at 759.

Here, although the addition of two new Board members had changed the membership composition of the Board from the time of the initial hearings in December 2013 to the time the Board reviewed the matter on 16 March 2015 after remand, both new Board members had an opportunity to read and review all of the evidence previously considered. Commissioner Oakes stated he “reviewed the entire record of the prior proceedings” before participating in the 16 March vote.

The change in Board membership composition had no effect upon Petitioners or Strata Solar’s ability to present its arguments in favor of issuance of the conditional use permit. *See Cox v. Hancock*, 160 N.C.App. 473, 483, 586 S.E.2d 500, 507 (2003) (holding “access to the minutes and exhibits from the earlier meeting” assured petitioners were provided with due process and change in Board membership had no effect on petitioners’ ability to present arguments).

Petitioners have failed to show any prejudice by new Commissioner Oakes’ participation in the hearing and vote on remand. *See Baker v. Town of Rose Hill*, 126 N.C.App. 338, 342, 485 S.E.2d 78, 81 (1997) (holding petitioners failed to show prejudice where four of five members of Town Board voted in favor of resolution to issue conditional use permit). This argument is overruled. The superior court’s ruling on this issue is affirmed.

2. Improper Burden of Proof

[16] Petitioners argue an improper burden of proof was imposed and their Due Process rights were violated because Commissioner Patton stated he was voting against issuing the permit because the applicant did not prove its case “beyond a doubt,” and Commissioner Oakes and the Board’s *30 findings of fact stated “[a]lthough [Strata Solar] did meet its burden of production and provided evidence as to this element, we found the evidence unpersuasive.” We review this alleged error of law *de novo*. *Westminster Homes, Inc. v. Town of*

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Cary Zoning Bd. of Adjustment, 140 N.C.App. 99, 102, 535 S.E.2d 415, 417 (2000) (“If a petitioner contends the Board’s decision was based on an error of law, *de novo* review is proper.”), *aff’d*, 354 N.C. 298, 554 S.E.2d 634 (2001).

The above-mentioned statements were made during the Board’s 16 March 2015 deliberations upon remand from the superior court. The transcript of the 16 March deliberations and the record before us support Petitioners’ argument that the Board’s decision was based upon holding Strata Solar to an improper burden and legal standard. The superior court concluded “there were no procedural errors in the Board of Commissioners’ decision on remand” and Commissioner Patton’s statement “does not suggest to the Court that he applied the wrong legal standard, but rather that he merely used a layman’s term.”

“This Court must examine the trial court’s order for error of law just as with any other civil case.” *Tate Terrace*, 127 N.C.App. at 219, 488 S.E.2d at 849 (citation and internal quotation marks omitted). Based on the evidence presented, the Board found “the applicant has failed to meet its burden of proof. Although it did meet its burden of *production* and provided evidence as to this element, we found the evidence unpersuasive.” (emphasis supplied).

In *Woodhouse v. Bd. of Comm’rs of Nags Head*, 299 N.C. 211, 217, 261 S.E.2d 882, 887 (1980), our Supreme Court noted: “It is well settled [sic] that an applicant has the initial burden of showing compliance with the standards and conditions required by the ordinance for the issuance of a conditional use permit.” Our Supreme Court further stated:

To hold that an applicant must first anticipate and then prove or disprove each and every general consideration would impose an intolerable, if not impossible, burden on an applicant for a conditional use permit. An applicant need not negate every possible objection to the proposed use. Furthermore, once an applicant shows that the proposed use is permitted under the ordinance and presents testimony and evidence which shows that the application meets the requirements for a special exception, the burden ... falls upon those who oppose the

issuance of a special exception.

Id. at 219, 261 S.E.2d at 887–88 (citations and internal quotation marks omitted).

Commissioner Patton’s reference to holding Strata Solar to a “beyond a doubt” standard during the deliberations, in addition to Commissioner Oakes stating and the Board’s order denying Strata Solar’s permit because it “failed to meet its burden of proof” tends to show the Board imposed an improper standard or failed to recognize the requisite burden-shifting to the Intervenor–Respondents after Strata Solar had made its *prima facie* case for entitlement. *Humble Oil*, 284 N.C. at 468, 202 S.E.2d at 136 (citations omitted).

Once Strata Solar established its *prima facie* case, the Board’s decision not to issue the permit must be “based upon findings contra which are supported by competent, material, and substantial evidence appearing in the record.” *Id.*

Here, the Board not only required Strata Solar to meet its burden of production to make its *prima facie* case, but one decision-maker apparently imposed a “beyond a doubt” burden of proof on Strata Solar. The Board also incorrectly implemented a “burden of persuasion” upon Strata Solar after Strata Solar it presented a *prima facie* case, rather than shifting the burden to the Intervenor–Respondents to produce rebuttal evidence contra to overcome Strata Solar’s entitlement to the conditional use permit.

The Board’s requirements are contrary to our Supreme Court’s holdings in *Humble Oil* and *Woodhouse*, and as consistently applied in their progeny. See *Cumulus Broad., LLC v. Hoke Cty. Bd. of Comm’rs*, 180 N.C.App. 424, 427, 638 S.E.2d 12, 15–16 (2006) (“When an applicant has produced competent, material, and substantial evidence tending to establish the existence of the facts and conditions which the ordinance requires for the issuance of a special use permit, *prima facie* *31 he is entitled to it.” (citation and quotation marks omitted)); *Howard*, 148 N.C.App. at 246, 558 S.E.2d at 227 (“Once an applicant makes [its *prima facie*] showing, the burden ... falls upon those who oppose the issuance of the permit.” (citation omitted)).

The superior court’s order is reversed on this issue and remanded to that court for further remand to the Board for additional quasi-judicial proceedings, utilizing the proper legal procedures and standards, which hold Strata Solar and Intervenor–Respondents to their respective burdens of proof. In light of this decision, we need not address

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Petitioners' remaining argument that the Board's denial of Strata Solar's conditional use permit was not supported by competent, substantial, and material evidence.

V. Conclusion

Strata Solar produced substantial, material, and competent evidence to establish a *prima facie* case of entitlement to the issuance of a conditional use permit by Lincoln County.

Petitioners have failed to carry their burden to show they were prejudiced or denied Due Process by new Commissioner Oakes' participation in the Board's decision upon remand. Petitioners' argument that Strata Solar was held to an improper burden of proof and that the Board failed to shift the burden of proof to the Intervenors-Respondents is supported by the record.

The order of the superior court, which upheld the Board's

denial of Strata Solar's application for a conditional use permit, is reversed and remanded with further instructions to remand to the Board for further proceedings consistent with this opinion. See *N.C. Gen. Stat. § 160A-393(k)(3) (2015)*, *Dobo v. Zoning Bd. of Adjustment of Wilmington*, 149 N.C.App. 701, 712-13, 562 S.E.2d 108, 115-16 (2002) (Tyson, J., dissenting), *rev'd per curiam*, 356 N.C. 656, 576 S.E.2d 324 (2003).

AFFIRMED IN PART; REVERSED IN PART, AND REMANDED.

Judges BRYANT and INMAN concur.

All Citations

789 S.E.2d 21

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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-656

Filed: 19 December 2017

Currituck County, No. 16 CVS 203

ECOPLEXUS INC., FRESH AIR ENERGY II, LLC and CURRITUCK SUNSHINE FARM, LLC, Petitioners,

v.

COUNTY OF CURRITUCK, BOARD OF COMMISSIONERS, and DAVID L. GRIGGS, in his official capacity as Chairman of the Board of Commissioners, and O.VANCE AYDLETT, JR., S. PAUL O'NEAL, MIKE D. HALL, MIKE H. PAYMENT, PAUL M. BEAUMONT, and MARION GILBERT, in their official capacities as members of the Board of Commissioners of the County of Currituck, Respondents,

and

STEVEN P. FENTRESS, DONALD LEON PROFFITT, GAIL LYNN PROFFITT, JAMES J. WIERZBICKI, MARGARET GERALDINE NEWSOME, DAVID L. RICE, LINDA L. RICE, RANDY L. MILLS, ROY W. TATE, KATHY C. TATE, FIDEL C. ESCOBAR, LAURA DARDEN and MICHELLE LYNN CUNNINGHAM, Intervenor-Respondents.

Appeal by petitioners from order entered 23 March 2017 by Judge Jerry R. Tillett in Currituck County Superior Court. Heard in the Court of Appeals 15 November 2017.

Tuggle Duggins P.A., by Michael S. Fox, Benjamin P. Hintze and Jaye E. Bingham-Hinch, for petitioner-appellants.

Currituck County Attorney Donald I. McRee, Jr. for respondent-appellees.

TYSON, Judge.

Ecoplexus, Inc., Fresh Air Energy II, LLC, and Currituck Sunshine Farm, LLC (“Petitioners”) appeal from an order affirming the decision of the Currituck County Board of Commissioners (“the Board”) to deny Petitioners’ application for a use permit to construct a solar energy array farm. We reverse and remand.

I. Background

Petitioners Currituck Sunshine Farm, LLC (“Currituck”) and Ecoplexus, Inc. (“Ecoplexus”) applied for a use permit on 11 December 2015, to construct a solar array farm on the vacant property that was previously used as Goose Creek Golf Course (“the property”), located at 6562 Caratoke Highway, Grandy, North Carolina. The golf course closed as a result of a foreclosure action in 2012 and has remained unused. Currituck owns the property, and Ecoplexus is a solar farm developer. Fresh Air Energy II, LLC (“Fresh Air”) is the proposed tenant of the solar array farm to be developed.

The property is located in an Agricultural (“AG”) Zoning District. The Currituck County Unified Development Ordinance (“UDO”) provides that a “solar array” is allowed as a permitted use on AG zoned land, subject to a use permit.

The Currituck County Planning Staff and the Planning Board unanimously recommended the application for the permit to be approved, finding Petitioners’ application fulfilled all the use permit review standards. On 4 April 2016, the

Currituck County Board of Commissioners held a quasi-judicial hearing to consider Petitioners' use permit application.

A. Evidence Presented by Petitioners

Ecoplexus is a developer of solar energy farms, with projects located in five states, including ten projects within North Carolina. Nathan Rogers of Ecoplexus testified regarding the design of the proposed solar energy farm. He explained the solar panels would be arranged in rows and attached to metal racking, bringing the total height to 8 to 10 feet. To comply with the UDO's 300-foot setback requirements, the majority of the existing trees on the property would remain, with Ecoplexus filling in any gaps in the natural barrier with landscaping. Mr. Rogers opined that the solar farm would be harmonious with the surrounding properties. Concerning herbicide use, Mr. Rogers testified he preferred not to use herbicides, but did not rule out the possibility of future herbicide use.

Tommy Cleveland, a licensed engineer specializing in solar energy in North Carolina, testified regarding the materials to be used. Solar panels are constructed of "very non-toxic" silicone-based cells, and the other components consist of glass, aluminum, and plastic. He testified the safety of these materials has been tested over the course of 25 to 30 years. Mr. Cleveland asserted there would be no emissions, and the electromagnetic field produced by the panels would be below international

occupational hazard levels, and virtually non-existent at the perimeter of the property.

Mr. Cleveland also testified solar facilities can be built to withstand hurricane force winds, and the proposed facility will be engineered to withstand winds of up to 120 mph. Because of the overall safety of solar farms, Mr. Cleveland testified there would be no negative health or safety impacts to the neighboring properties or the community from the installation of this solar energy system.

Rich Kirkland, a certified and MAI designated appraiser, testified regarding the impact of the proposed solar farm on the valuation of the surrounding properties. Mr. Kirkland stated he has visited over 170 solar farms in North Carolina, and testified that over 90 percent of properties adjoining solar farms in North Carolina are located “where homes and fields meet,” between agricultural and residential areas.

Regarding the aesthetics of the proposed site, Mr. Kirkland testified the 400 foot average buffer from the proposed location of the solar panels to nearby homes is greater than the 150 foot average commonly observed in other projects across North Carolina. With the large setback buffer from the homes in the area and the natural vegetative barrier, Mr. Kirkland opined the property is a harmonious location for a solar farm.

Mr. Kirkland also conducted a “matched pair” analysis of four other solar farm projects. In those properties, he opined no effects were shown on either the sale or value of surrounding properties. Mr. Kirkland predicted a similar outcome for the proposed facility, and opined the construction of the solar farm would not negatively impact surrounding property values.

Kim Hamby, a North Carolina licensed engineer with 20 years of experience in water management, testified regarding the surface water, impoundments, and drainage on the property. Several ponds from the golf course would be filled in to construct the solar farm. Ms. Hamby testified sufficient drainage would be provided to make up for filled ponds. The new drainage system would be installed before the ponds are filled in, and the larger existing ponds will remain along the perimeter of the property. Further, the proposed solar farm would reduce the impervious surfaces of the property and leave plenty of land to manage and absorb surface water effectively. Ms. Hamby testified the drainage plan would be submitted for review and approval by the county engineers and the North Carolina Department of Environmental Quality. Plaintiffs assert this evidence, taken together, establishes a *prima facie* case of entitlement to the use permit.

B. Evidence Presented by Respondents

Herb Eckerlin, a professor in mechanical and aerospace engineering at North Carolina State University, testified regarding the overall problems he sees with solar

energy. Dr. Eckerlin expressed concern with the high cost of energy in places such as California and Germany, but stated his testimony was based upon internet research. He also took issue with the legislative decision to allow only twenty percent of the value of a solar farm to be taxed, and opined Currituck County would see very little economic or tax benefit from allowing a solar farm to be approved.

Dr. Eckerlin opined that the actual number of panels or type of panels installed in solar farms would be different from what was stated in the application, and there was no local or state oversight available to address such problems. He believes all solar farm construction should cease until these issues are addressed.

Ron Heiniger, a professor in the crop, soil, and environmental science department at North Carolina State University, testified regarding the holding ponds. Holding ponds are important to maintain and control nutrient runoff from the property, and protect the surrounding environment. Dr. Heiniger asserted these holding ponds were important for containing the pesticides and herbicides applied when the property was used as a golf course, and opined this same purpose would be necessary for the proposed solar farm. He testified the federal government does not allow solar farms to be located on property owned by the United States Department of Agriculture (“USDA”) in North Carolina, though he conceded a solar farm would not be in harmony in a national forest or park, which is the use of the majority of USDA-owned land located in North Carolina.

Bruce Sauter, a certified appraiser, testified regarding the highest and best use for the property. He had appraised Goose Creek Golf Course in 2012, prior to the foreclosure action, and concluded the highest and best use of the property would be single family homes. Mr. Sauter opined the proposed solar farm would not be harmonious with the surrounding residential community, but asserted that harmonious use is the same as highest and best use. He questioned Mr. Kirkland's opinions on land value, as Mr. Kirkland's evaluation did not consider properties in the eastern part of the state. Mr. Sauter opined it was too early to tell how land and home values would be affected in Currituck County by solar farms.

Steve Fentress, a resident of Grandy Road, testified and expressed his concerns about the proposed project. He questioned whether the amount of on-site fill would be enough to fill in the ponds, and was concerned about drainage on adjoining properties as a result of filling in the ponds. Mr. Fentress argued solar farms are an industry, and should be regulated under industrial use. He also testified as to the lack of inspections at other nearby, established solar farms, and communicated the need for such inspections, especially concerning the joining of metals from the panel to the frame.

Laura Darden, an adjoining property owner, testified regarding the current water drainage issues. One of the existing retention ponds from the defunct golf course is located near her property, and every time it rains, she states it overflows

onto her property. She asserted that at least fifty percent of her property was underwater at the time of the hearing, and she was concerned that changes resulting from constructing the solar farm would only make flooding on her property worse.

C. Procedural Outcome

The Board denied Petitioners' application for a use permit for failure to comply with the Use Permit Review Standards in an order dated 2 May 2016. The Board found the proposed solar farm (1) would endanger the public health or safety, (2) would not be in harmony with the surrounding area, and (3) would not be in conformity with the 2006 Land Use Plan.

On 31 May 2016, Petitioners filed a petition for writ of certiorari, seeking review of the Board's decision in the superior court. The superior court upheld the Board's decision in an order dated 23 March 2017. Petitioners appeal.

II. Jurisdiction

Jurisdiction lies in this Court from a final order of the superior court pursuant to N.C. Gen Stat. § 7A-27(b) (2015).

III. Issues

Petitioners argue the superior court erred by affirming the Board's decision because: (1) their application for a use permit was supported by competent, substantial, and material evidence; (2) they made a *prima facie* showing entitling

them to the use permit; and, (3) the Board's denial was not supported by competent, substantial, and material evidence, and its decision was arbitrary and capricious.

IV. Standard of Review

“A legislative body such as the Board, when granting or denying a conditional use permit, sits as a quasi-judicial body.” *Sun Suites Holdings, LLC v. Bd. of Alderman of Town of Garner*, 139 N.C. App. 269, 271, 533 S.E.2d 525, 527, *disc. review denied*, 353 N.C. 280, 546 S.E.2d 397 (2000).

“The Board's decisions ‘shall be subject to review of the superior court in the nature of certiorari.’” *Dellinger v. Lincoln Cty.*, __ N.C. App. __, __, 789 S.E.2d 21, 26 (quoting N.C. Gen. Stat. § 160A-381(c) (2015)), *disc. review denied*, 369 N.C. 190, 794 S.E.2d 329 (2016). “In reviewing the Commissioners' decision, the superior court sits as an appellate court, and not as a trier of facts.” *Innovative 55, LLC v. Robeson Cty.*, __ N.C. App. __, __, 801 S.E.2d 671, 675 (2017) (citation and quotation marks omitted). Under the scope of its review, a superior court may only determine whether:

- 1) the [b]oard committed any errors in law; 2) the [b]oard followed lawful procedure; 3) the petitioner was afforded appropriate due process; 4) the [b]oard's decision was supported by competent evidence in the whole record; and
- 5) [whether] the [b]oard's decision was arbitrary and capricious.

Overton v. Camden Cty., 155 N.C. App. 391, 393, 574 S.E.2d 157, 159 (2002) (alterations in original) (quoting *Capital Outdoor, Inc. v. Guilford Cty. Bd. of Adjustment*, 152 N.C. App. 474, 475, 567 S.E.2d 440, 441 (2002) (citation omitted)).

This Court's review of the superior court's order "is limited to determining whether the superior court applied the correct standard of review, and to determine whether the superior court correctly applied that standard." *Overton*, 155 N.C. App. at 393-94, 574 S.E.2d at 160.

"When a party alleges the Board of Commissioners' decision was based upon an error of law, both the superior court, sitting as an appellate court, and this Court reviews the matter *de novo*, considering the matter anew." *Dellinger*, ___ N.C. App. at ___, 789 S.E.2d at 26 (citation omitted). When the petitioner argues the Board's decision is arbitrary and capricious, this Court applies the whole record test. *Id.* "The whole record test requires that the trial court examine all competent evidence to determine whether the decision was supported by substantial evidence." *Morris Commc'ns. Corp. v. Bd. of Adjustment of Gastonia*, 159 N.C. App. 598, 600, 583 S.E.2d 419, 421 (2003) (citation omitted).

V. Analysis

Petitioners argue the Board improperly denied their application for a use permit, as their application was supported by competent, substantial, and material evidence. Petitioners assert this *prima facie* showing entitles them to a use permit under the standards in the UDO, and the opponents of the solar farm did not present competent or material evidence sufficient to overcome or rebut this *prima facie* showing. We agree.

A. Petitioners' *Prima Facie* Showing

“When an applicant for a conditional use permit produces competent, material, and substantial evidence of compliance with all ordinance requirements, the applicant has made a *prima facie* showing of entitlement to a permit.” *Howard v. City of Kinston*, 148 N.C. App. 238, 246, 558 S.E.2d 221, 227 (2002) (citation and quotation marks omitted). “Material evidence is ‘[e]vidence having some logical connection with the facts of consequence or the issues.’” *Dellinger*, __ N.C. App. at __, 789 S.E.2d at 27 (quoting Black’s Law Dictionary 638 (9th ed. 2009)). “Substantial evidence is evidence a reasonable mind might accept as adequate to support a conclusion.” *Humane Soc’y of Moore County v. Town of S. Pines*, 161 N.C. App. 625, 629, 589 S.E.2d 162, 165 (2003) (citation and quotation marks omitted).

While the applicant must make an initial, or *prima facie*, showing of compliance, “[t]o hold that an applicant must first anticipate and then prove or disprove each and every general consideration would impose an intolerable, if not impossible, burden on an applicant for a conditional use permit. An applicant need not negate every possible objection to the proposed use.” *Woodhouse v. Bd. of Comm’rs of Town of Nags Head*, 299 N.C. 211, 219, 261 S.E.2d 882, 887-88 (1980) (citation and quotation marks omitted).

Solar energy arrays are expressly scheduled as a permitted use in property zoned AG under section 4.1.2 of the Currituck County UDO, subject to a use permit.

Section 2.4.6 of the UDO, “Use Permit Review Standards” provides:

A use permit *shall be approved* on a finding the applicant demonstrates the proposed use will:

- (1) Not endanger the public health or safety;
- (2) Not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located;
- (3) Be in conformity with the Land Use Plan or other officially adopted plan.
- (4) Not exceed the county’s ability to provide adequate public facilities, including but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. (Emphasis supplied).

The Planning Board unanimously found Petitioners had met their burden under section 2.4.6 of the UDO as to the first three standards, and that standard (4) was not at issue in this case.

Petitioners then presented competent, material, and substantial lay and expert testimony to the Board to show: (1) solar panels are safe and generate no toxic emissions, and the proposed solar farm will be able to withstand winds up to 120 mph; (2) the proposed solar farm will not adversely affect surrounding property values, and, due to natural and supplemental vegetation buffers and setbacks, will

be in harmony with the surrounding area; and, (3) the proposed project complies with the Land Use Plan as a full service sub-area.

B. Board's Denial of Petitioners' *Prima Facie* Showing

“Once an applicant makes [a *prima facie*] showing, the burden of establishing that the approval of a conditional use permit would endanger the public health, safety, and welfare falls upon those who oppose the issuance of the permit.” *Howard*, 148 N.C. App. at 246, 558 S.E.2d at 227. If after presentation of rebuttal evidence a board denies the application, the denial must be “based upon findings which are supported by competent, material, and substantial evidence appearing in the record.”

Id.

After presentation of Petitioners' and opponents' evidence, the Board concluded the proposed solar energy farm:

- 1) Will endanger the public health or safety because:
 - a. The applicant . . . did not adequately address water drainage to ensure that the amount of water that needs to vacate the property will be able to do so safely without negative impact to adjoining properties. . . .
 - b. There is significant disparity with the amount of material that is available on the site for backfilling the ponds and . . . [backfilling] will create an additional drainage issue
 - c. Testimony . . . relative to the use of chemicals on the property, specifically herbicides is unspecified as to the use and amount. Without some limitation . . . it is going to be excessive and present a health hazard to those around it.

2) Will not be in harmony with the area in which it is located because:

a. Expert testimony from Mr. Sauter indicates a solar farm is not the highest and best use of the property, is not in harmony with adjacent neighborhoods, and provides stark contrast to the adjacent subdivision.

3) Will not be in conformity with the 2006 Land Use Plan because:

a. It is a large facility being reverted or being used in a manner that would not be conducive in a full service district because this district is intended for community centers that include a diversity of housing types and clusters of businesses to serve the immediate area.

....

d. The use is not consistent with POLICY ID9 which states the county shall not support the development of energy producing facilities within its jurisdiction.

e. The use is not consistent with POLICY CD6 which states that appropriate office and institutional developments . . . be encouraged to locate as a transitional land use between residential areas and commercial. A solar array is classified as an institutional use, but . . . is not an appropriate transitional use.

The Board's decision must include and be based upon all of the Petitioners' evidence, or lack thereof, to show a *prima facie* case. *See Innovative 55*, __ N.C. App. at __, 801 S.E.2d at 676. The denial cannot be based on evidence solely presented by the opponents to the solar farm, the Board's own personal opinions, or by no evidence at all. *See id.*

“Speculative and general lay opinions and bare or vague assertions do not constitute competent evidence” to overcome an applicant’s *prima facie* showing. *Id.* at ___, 801 S.E.2d at 678.

Speculative assertions, mere expression of opinion, and generalized fears about the possible effects of granting a permit are insufficient to support the findings of a quasi-judicial body. In other words, the denial of a conditional use permit may not be based on conclusions which are speculative, sentimental, personal, vague, or merely an excuse to prohibit the requested use.

Howard, 148 N.C. App. at 246, 558 S.E.2d at 227 (citation and internal quotation marks omitted).

Regarding finding 1) a. and b., the Board wholly ignored Petitioners’ expert testimony on water management, and solely considered lay witnesses’ testimony of their speculative fears of worsening floods due to the present state of storm water drainage and management on adjacent properties. Even if true, this flooding is based upon current conditions from the defunct golf course and not due to conditions or uses proposed by Petitioners. Further, Petitioners asserted their desire not to use herbicides. Very little testimony addressed the use of chemicals on the property. It appears this finding is based on the generalized fear of the Board, as no competent evidence in the record supports the finding of hazardous levels of herbicide use. Finding 1) is not supported by competent, material, and substantial evidence to rebut Petitioners’ *prima facie* showing, but is merely based on generalized and speculative fears and concerns. *See id.*

Similarly, the Board erred in regards to finding 2), by only considering testimony of opponents and ignoring the expert testimony offered by Petitioners. Mr. Sauter did not present any value impact evidence of properties surrounding solar farms, but merely stated his opinion on the impact on surrounding properties. Mr. Kirkland presented data relating to the value of properties around existing solar farms. Finding 2) erroneously equates “harmonious use” with “highest and best use” after Mr. Sauter conceded that the use need not be “the highest and best use” to be “harmonious.” This finding is not based on competent, material, and substantial evidence to rebut Petitioners’ *prima facie* case.

It does not appear the Board used any record evidence to support its finding 3) that a solar farm is an incompatible use. Mr. Fentress, a lay witness, asserted his belief that solar farms are an industrial use, in contradiction to the Currituck County UDO specifically designating solar arrays as an appropriate and permitted use in agricultural areas, subject to a use permit. General assertions criticizing solar farms by lay witnesses do not rise to the level of competent, material, and substantial evidence to overcome the prior legislative determination to allow solar arrays as a permitted use in agricultural areas, after meeting permit requirements. *Blair Invs., LLC v. Roanoke Rapids City Council*, 231 N.C. App. 318, 325, 752 S.E.2d 524, 530 (2013). Further, no other evidence in the record supports the Board’s five findings that a solar energy farm is an incompatible land use.

The Planning Board unanimously found Full Service areas “are those parts of the county where a broad range of infrastructure and service investments have been provided.” They found and recommended the proposed solar energy farm will be harmonious in a Full Service district, and supports two specific policies of the Land Use Plan as adopted by the County Commission:

- a. POLICY ED1: New and expanding industries and businesses should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.
- b. POLICY ID1 Provide industrial development opportunities for cluster industries identified by Currituck Economic Development such as defense aero-aviation, port and maritime related industries, *alternative energy*, agriculture and food, and local existing business support. (Emphasis supplied).

In contrast, the Board found the proposed solar energy farm violated Policy ID9, which states, “Currituck County shall not support the exploration or development of ENERGY PRODUCING FACILITIES within its jurisdiction including, but not limited to, oil and natural gas wells, and associated staging, transportation, refinement, processing or on-shore service and support facilities.” The Board points to Policy ID9 as evidence a solar farm, as an “energy producing facility,” does not conform to the 2006 Land Use Plan.

While a solar farm could be considered an “energy producing facility,” the examples listed in ID9: “oil and natural gas wells and associated staging,

transportation, refinement, processing or on-shore service and support facilities,” are distinctly different than a solar energy farm, which is clearly a form of “alternative energy.” Further, the Land Use Plan clearly indicates prior legislative support for “cluster industries identified by Currituck Economic Development such as . . . alternative energy.”

These prior legislative findings by the Board of Commissioners clearly refute the Board’s findings at bar, which are not supported by competent, material, and substantial evidence, that the proposed use would not be in conformity with a Full Service area and would be an “energy producing facility.” The Planning Board’s recommendations also reflect the current permitted developments in Currituck County, which contains two previously approved solar energy farms.

Without competent, material, and substantial evidence to overcome Petitioners’ *prima facie* showing to support its findings, it appears the Board relied on generalized lay concerns, speculation, and “mere expression of opinion” and improperly denied Petitioners’ use permit application after Petitioners had made a *prima facie* showing of entitlement to the use permit. *See Howard*, 148 N.C. App. at 246, 558 S.E.2d at 529.

VI. Conclusion

Based upon review of the whole record, Petitioners presented a *prima facie* showing of entitlement to their use permit to construct a solar energy farm in a zoning

district where such facility is a permitted use. The Board's denial of the application was not based on competent, material, and substantial evidence to rebut the Petitioners' *prima facie* showing. "When a Board action is unsupported by competent substantial evidence, such action must be set aside for it is arbitrary." *MCC Outdoor, LLC v. Town of Franklinton Bd. of Comm'rs*, 169 N.C. App. 809, 811, 610 S.E.2d 794, 796, *disc. review denied*, 359 N.C. 634, 616 S.E.2d 540 (2005). The superior court's order affirming the Board's denial of Petitioners' application is reversed.

This matter is remanded with instructions to the superior court to further remand to the Board to approve Petitioners' application. Upon remand, the Board may hear and require reasonable terms for the Petitioners to comply with the development standards, including Petitioners securing any required approvals of other local, state, and federal authorities' and agencies' permits required to operate the solar array energy farm. *It is so ordered.*

REVERSED AND REMANDED.

Judges CALABRIA and DAVIS concur.

Data Request SITING BOARD_1_41:

Refer to the SAR, Section 4, pages 5–6, and Appendix D, generally.

Section 4, pages 5–6, appear to be the only places where noise generated during the construction phase of the project is discussed.

a. Provide a list and discussion of equipment that during the construction phase generate noise and the anticipated noise levels generated. The list should include relevant items such as air compressors, earth moving equipment, pile driving equipment and activity, trucks, pumps, pneumatic tools, spike drivers, tie cutters, tie handlers, tie inserters, and welders or torches.

b. Refer to Appendix D, Table 3, page 11

(1) Explain what assumptions were made for the “worst case scenario.”

(2) Provide a table similar to Table 3 that lists the anticipated noise levels generated by the equipment or construction related activity identified in Item 41a. above at each of the noise receptors R1 through R26 locations. Include in the table the distance between each noise receptor and the equipment or activity causing the noise in the “worst case scenario.”

Response:

a. The “Construction Schedule and Equipment” section of the Construction Noise Analysis Report provides the answer to this question. At the time of the noise analysis, Bluebird had not determined actual construction equipment type, quantity, and schedule. Bluebird provided its typical construction information

with a similar project site for noise analysis. Please refer to Section "Construction Schedule and Equipment" in the Bluebird Operation Noise Analysis Report for further details.

b.

(1) The assumption that all the equipment will operate simultaneously is made for the "worst case scenario." This will likely not be the case. For example, panels will turn no more than five (5) degrees every 15 minutes and will operate no longer than one (1) minute out of every 15-minute period. These tracking motors are a potential source of mechanical noise and are included in this assessment.

(2) Please refer to Table 6 in the Bluebird Solar Operation Noise Analysis Report which lists the anticipated noise levels the construction equipment will generate in the noisiest construction phase at each of the noise receptors R1 through R26. The distance between the project boundary and each noise receptor is shown in Table 3 in the Construction Noise Analysis Report.

See attached Bluebird Operation Noise Analysis Report: "Bluebird Solar Project Operation Noise Analysis Report" BSLLC_R_SITING BOARD_1_41_Attachment.

Witness: David Shu

BLUEBIRD SOLAR PROJECT

OPERATION NOISE ANALYSIS REPORT

Prepared for
BayWa r.e. Solar Projects LLC
18575 Jamboree Road, Suite 850
Irvine, CA 92612



Prepared by
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Phoenix, AZ 85008



July 2021

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APPENDICES

A. NOISE LEVEL MONITORING RESULTS	A1-A15
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1.0 INTRODUCTION

The Bluebird Solar project is located in Harrison County, approximately one mile east of Leesburg, KY. The majority of the project sits between Highways 62 and 353, with a portion of the project located to the east of Highway 353. The project's southern border is 0.5 mile north of the Harrison County southern boundary line. Figure 1 depicts the project location.

The Bluebird Solar project is a 90 to 100 MWac PV solar farm. The buildable area, of approximately 1000 acres which will be permitted, includes discrete fenced areas of solar panels, laydown areas, landscaping, internal access roads, a project substation, and a utility switchyard. Battery storage is not included. To evaluate the existing and the proposed operation noise impacts from the project to nearby sensitive receptors, AZTEC Engineering was contracted by BayWa to conduct an operation noise impact analysis. This operation noise analysis report was prepared to document the existing noise levels surrounding the project area, predict operation noise levels at sensitive receptors, and determine the operation noise impact.

2.0 NOISE BACKGROUND INFORMATION

Sound is a form of energy that is transmitted by pressure variations that the human ear can detect. Sound levels are expressed in units of decibels (dB). Sound frequency is expressed in units of hertz (Hz). A normal human ear is able to hear sound with frequencies from 20 Hz to 20,000 Hz. Because the human ear does not equally perceive all sound frequencies, people perceive sound in the middle frequency better than sound in the low and high frequencies. As a result, sound levels in some frequency bands are adjusted or weighted to the frequency response of human hearing and the human perception of loudness. The "A"-weighted sound in decibels, or dBA, most closely represents the range of human hearing.

Noise is often called unwanted sound. Each individual perceives noise level changes differently. Generally, a 3 dBA noise change is the smallest change that can be detected by the human ear. A 5 dBA noise change is readily perceivable by most people. An increase of 10 dBA is normally perceived as a doubling of noise loudness. Typical sound levels experienced by people range from the 30s dBA, such as a quiet living room at night, to the 80s dBA, such as a sidewalk adjacent to heavy traffic. Noise levels related to point sources such as pump motors decrease rapidly with a 6 dBA reduction when doubling the distance. Noise levels related to linear sources such as traffic on roadways decrease less rapidly — 3 dBA when doubling the distance. Table 1 shows noise levels associated with common sources.

Noise varies in frequency, and its intensity fluctuates over time. Therefore, the A-weighted equivalent steady-state noise level — expressed as " L_{Aeq} " — is used to represent a single number to describe varying noise levels over a specified period. Another metric used in determining the impact of environmental noise is the differences in response that people have to daytime and nighttime noise levels. During the evening and at night, exterior background noises generally are lower than daytime levels. However, most household noise also decreases at night, and exterior noise becomes more noticeable. Furthermore, most people sleep at night and are sensitive to

intrusive noises. The L_{dn} is a noise metric that accounts for the greater annoyance of noise during the nighttime hours (10:00 p.m. to 7:00 a.m.).

TABLE 1 COMMON NOISE SOURCES AND LEVELS	
Sound Pressure Level (dBA)	Typical Sources
120	Jet aircraft takeoff at 100 feet
110	Same aircraft at 400 feet
90	Motorcycle at 25 feet
80	Garbage disposal
70	City street corner
60	Conversational speech
50	Typical office
40	Living room (without TV)
30	Quiet bedroom at night

Source: *Environmental Impact Analysis Handbook* (Rau and Wooten 1980)

3.0 ENVIRONMENTAL SETTING

3.1 Land Uses and Noise Sensitive Receptors

Noise-sensitive receptors generally are defined as locations where people reside or where the presence of unwanted sound may adversely affect the existing land use. Typically, noise-sensitive land uses include residences, hospitals, places of worship, libraries, performance spaces, offices, and schools, as well as nature and wildlife preserves, recreational areas, and parks.

The project is located in a rural area. Existing land use within the project site is primarily agricultural. Ambient noise is mainly from traffic on Highways 62 and 353 for those sensitive receptors with close proximity. For other sensitive receptors further away from the roadways, ambient noise is composed of farm equipment (e.g., tractors) used to grow and harvest crops and to raise cattle and other farm animals. No commercial or industrial sources were identified in the analysis area.

3.2 Existing Noise Conditions

Noise monitoring was conducted at 5 different sites outside the project boundary to document existing noise conditions on April 12, 2021. Each site was monitored for 15 minutes. Weather conditions (temperature, relative humidity, wind speed and direction, and sky condition) were documented. The Larson Davis System 824 with sound level meter and real-time analyzer, which complies with American National Standards Institute (ANSI) S1.4 and Type I Standards, was used to collect the sound. The monitoring results are summarized in Table 2 and Figure 2.

TABLE 2 NOISE LEVEL MEASUREMENTS SUMMARY			
Monitor Number (MON)	Address/Description	Day/Time	Monitoring Result L _{Aeq} , dBA
1	Property owner driveway approximately 3 feet west of Lail Ln	April 12/ 2:28-2:43 PM	69
2	Road ROW approximately 10 feet east of Allen Pike	April 12/ 12:24-12:39 PM	49
3	Road ROW approximately 12 feet north of Allen Pike	April 12/ 11:42-11:47 AM	45
4	Road ROW approximately 15 feet west of Russel Cave Rd/KY-353	April 12/ 1:37 -1:52 PM	61
5	Property owner driveway approximately 30 feet west of Russel Cave Rd/KY-353	April 12/ 1:01-1:16 PM	57

The monitored noise levels represent the existing baseline noise condition within and adjacent to the project area during daytime hours. The average ambient noise levels from the measurements ranged from 45 dBA to 69 dBA. The lowest monitored noise level was recorded from site MON-3 on the west side of the project boundary approximately 12 feet north of Allen Pike. The highest monitored noise level was recorded from site MON-1 on a private driveway west of Lail Ln. Detailed noise level monitoring information is located in Appendix A of this report.

Figure 2. Noise Monitoring Results



4.0 REGULATORY SETTING

In 1974 the U.S. EPA published “Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin on Safety”. In this publication, the U.S. EPA evaluated the effects of environmental noise with respect to health and safety and determined an L_{dn} of 55 dBA (equivalent to a continuous noise level of 48.6 dBA) to be the maximum sound level that will not adversely affect public health and welfare by interfering with speech or other activities in outdoor areas.

Since no other local, county, or state thresholds were identified, an L_{dn} of 55 dBA has been used to determine if the project would adversely affect public health and welfare.

5.0 IMPACT ANALYSIS

Potential noise sensitive receptors were selected for noise modeling with up to 3,000-foot buffer from the project boundary. High resolution aerial photography, Google street view photos, and proposed site layouts were analyzed using Google Earth Pro to determine the presence of potential noise sensitive receptors. The selected receptors are all dwelling units. No schools, childcare centers, outdoor recreation, medical centers or other types of noise sensitive receptors were observed. Figure 3 shows the selected receptors to be modeled as noise receivers in the noise model.

The SoundPLAN® computer noise model was used for computing noise levels from the proposed operation noise from the transformers, inverters, and trackers under worst case scenario. An industry standard, SoundPLAN® was developed by Braunstein + Berndt GmbH to provide estimates of sound levels at distances from specific noise sources taking into account the effects of terrain features including relative elevations of noise sources, receivers, and intervening objects (buildings, hills, trees), and ground effects due to areas of hard ground (pavement, water) and soft ground (grass, field, forest). In addition to computing sound levels at specific receiver positions, SoundPLAN® can produce noise contour graphics that show areas of equal and similar sound level.

Analysis Methodology

The sound propagation model within SoundPLAN® that was used for this study was ISO 9613-2. This international standard propagation model is used nearly universally in the U.S. for environmental noise studies, due to its conservative propagation equations. ISO 9613-2 uses “worst-case” downwind propagation conditions in all directions, and accounts for variations in terrain and the effects of ground type.

The equivalent sound pressure level at the receiver, in downwind conditions, is calculated for each point source based on the formula below.

$$L_{eq} = L_w + D_c - A$$

Where:

L_{eq} is the equivalent sound pressure level at the receiver, in downwind conditions,

L_w is the sound power level by the point source,

D_c is the directivity correction that describes the deviation of the sound pressure level in a specific direction from the sound power level,

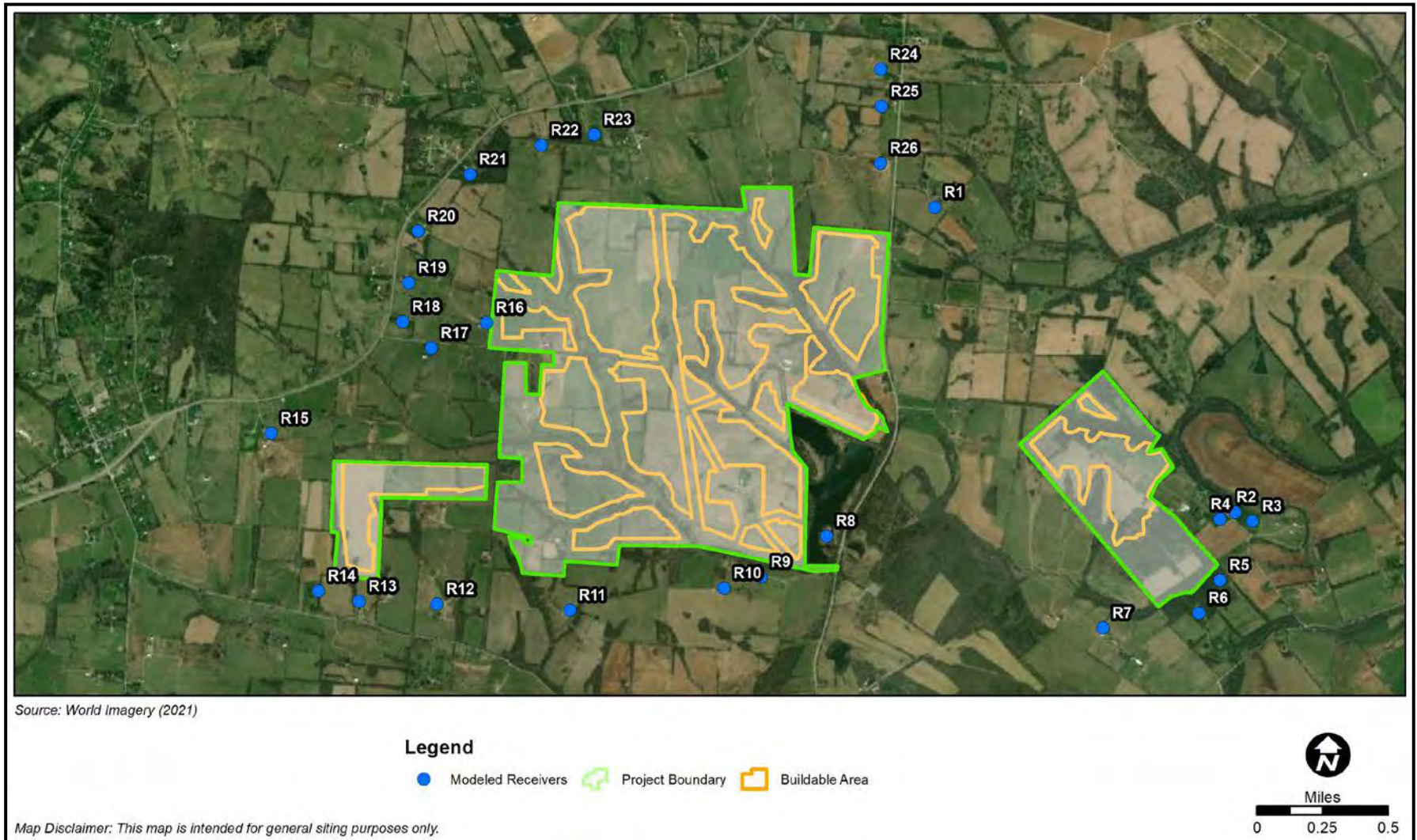
A is the attenuation of the sound propagation. It is a sum of the attenuation due to the geometrical divergence, the ground effect, the atmospheric absorption, the barriers, and miscellaneous other effects.

Geometrical divergence refers to the decline in noise level that occurs in association with increased distance from the receptor. Sounds generated from a point source typically attenuate or decrease at a rate of 6 dBA for each doubling of distance. For example, a noise level of 80 dBA measured at a distance of 5 feet from the noise source would be reduced to 74 dBA at 10 feet from the source and be further reduced to 32 dBA at 1280 feet.

The propagation of noise is also affected by the intervening ground, known as ground effect. A hard site (such as parking lots or smooth bodies of water) receives no additional ground attenuation, and the changes in noise levels with distance are simply the geometric spreading from the source, which equates to 6 dBA per doubling distance. A soft site (such as soft dirt, grass, or scattered bushes and trees) provides an additional ground attenuation value of 1.5 dBA per doubling of distance. Thus, a point source over a soft site would drop off at generally 7.5 dBA per doubling of distance. The 7.5 dBA drop off rate is just a rule of thumb for quick noise level estimation. SoundPLAN uses complex formula based on ground absorption coefficient and other factors such as terrain change to calculate noise levels at the receivers. SoundPLAN does not use 7.5 dBA drop off rate directly in the model.

The sound attenuation due to atmospheric absorption is calculated based on the atmospheric absorption coefficient (α). The absorption coefficient is calculated according to the ISO 9613-1 "Acoustics - Attenuation of sound during propagation outdoors - Part 1: Calculation of the absorption of sound by the atmosphere". It is dependent on the frequency, air pressure, temperature, and relative humidity.

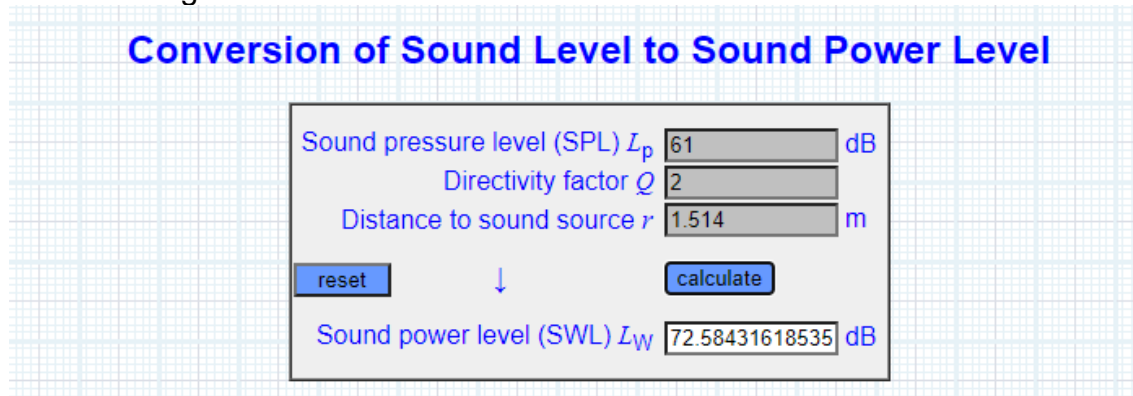
Figure 3. Modeled Noise Receivers



Transformer, Inverter, and Tracker Noise

The solar array associated with this project includes tracking panels distributed evenly across the site. Tracking systems involve the panels being driven by small DC motors to track the arc of the sun to maximize each panel's potential for solar absorption. Panels would turn no more than five (5) degrees every 15 minutes and would operate no more than one (1) minute out of every 15-minute period. These tracking motors are a potential source of mechanical noise and are included in this assessment. Because the model of the tracker was not available at the time of this report, it is assumed that the sound typically produced by each panel tracking motor is 61 dBA at 5 feet. For reference, that equates to a sound power level of 73 dBA, see conversion example in figure 4 below. Sound power level is the acoustic energy emitted by a source which produces a sound pressure level at some distance. While the sound power level of a source is fixed, the sound pressure level depends upon the distance from the source and the acoustic characteristics of the area in which it is located. Sound power level of each point source is the input to SoundPLAN.

Figure 4. Conversion of Sound Level to Sound Power Level



Source: www.sengpielaudio.com/calculator-soundpower.htm

This facility will consist of approximately 31 inverters, which are expected to be the loudest noise generating operational equipment. The model of the inverter is Power Electronics FS4010M. According to its specification, its noise level is less than 79 dBA measured at 1 meter from the back of the unit. To be conservative, noise level of 79 dBA at 1 meter was used to estimate inverter noise. That equates to a sound power level of 87 dBA. In addition, a small-scaled transformer would be used along with the inverter on each transformer pad. It is assumed that the sound typically produced by each small-scaled transformer is 58 dBA at 5 feet; that equates to a sound power level of 70 dBA.

Substation/Switchyard Noise

The proposed project's onsite substation/switchyard will be located in the middle of the project site (please refer to Figure 1). The substation is located more than 3,000 feet from the nearest sensitive noise receptor. It is assumed that a larger transformer at the Substation has a noise level of 71 dBA at a distance of 5 feet, which equates to a sound power level of 83 dBA. To be conservative, a total sound power level of 86 dBA was considered for the substation and switchyard.

The following data was used as input into the model.

- A total of 31-point sources was modeled to represent small-scaled transformers, inverters, and trackers on the transformer pads. A combined sound power level of 88 dBA was assumed for equipment on each transformer pad. The source height was assumed to be 5 feet.
- A point source was modeled to represent a large-scaled transformer for the substation/switchyard. A combined sound power level of 86 dBA was assumed for equipment in the substation and switchyard.
- A total of 26 receivers was modeled to represent sensitive noise receptors. The source height was assumed to be 5 feet.
- Topo contour lines were inputted into the model to consider terrain variation.
- Ground surface was assumed to be soft ground.

Table 3 shows the predicted project operation noise levels in hourly L_{Aeq} and L_{dn} for all selected receivers under the worst case scenario. Figure 5 shows operation noise contours of 30 dBA and 40 dBA L_{Aeq} generated by the noise model. As indicated, operation noise contours of 40 dBA L_{Aeq} were confined within the project site itself. Because all the solar equipment were considered point sources and they are located far away from the sensitive receptors, the equipment noise energy dissipated rapidly before reaching to the receptors. Figure 6 shows operation noise grid map within the project area. Operation noise would be masked by background ambient noise.

As can be seen from Table 3 below, predicted operation noise level are below 30 dBA L_{dn} at all sensitive receivers. Therefore, the proposed project operation will comply with EPA standard of 55 dBA L_{dn} as identified in Section 4. No future noise mitigation is needed for the project.

Receiver ID	Noise Levels (L_{Aeq} , dBA)	Noise Levels (L_{dn} , dBA)	Receiver ID	Noise Levels (L_{Aeq} , dBA)	Noise Levels (L_{dn} , dBA)
R1	24.7	22.7	R14	24.7	22.7
R2	23.6	21.7	R15	22.7	20.8
R3	22.2	20.3	R16	26.9	24.9
R4	24.7	22.7	R17	25.2	23.2
R5	22.6	20.7	R18	23.8	21.9
R6	21.9	20.0	R19	23.1	21.2
R7	22.8	20.9	R20	22.5	20.6
R8	26.3	24.3	R21	22.9	21.0
R9	25.5	23.5	R22	24.3	22.4
R10	25.5	23.5	R23	25.2	23.2
R11	24.7	22.7	R24	20.7	18.9
R12	23.7	21.8	R25	22.0	20.1
R13	24.7	22.7	R26	24.5	22.6

Note:
 1. Solar facility would not operate during night time hours and thus would not generate noise.

Vehicular Traffic

The solar facility is expected to have up to two technicians visiting the site daily for daily operations and maintenance activities. Other professionals will visit the site on an as-needed basis. Weekend work is not anticipated but may be required upon any component outages that may impact energy production from the site. Asides from the scenarios mentioned, vehicular traffic onsite will be limited to typical weekday business hours. Technicians will drive mid- or full-sized trucks and will not contribute noticeably to the existing traffic noise levels.

Maintenance Activities

Typical maintenance activities may include inspection, minor repair and maintenance on the solar panels, the tracking system, wiring, and/or inverters. Ground maintenance will include periodic inspection of the vegetative buffers, boundary fencing, and vegetation control through mowing and herbicide applications. Technicians will be on site Monday to Friday. Noise from maintenance activities will not contribute noticeably to the nearest sensitive receptors as they are similar to the background agricultural noise characteristics.

Figure 5. Operation Noise Contour Map

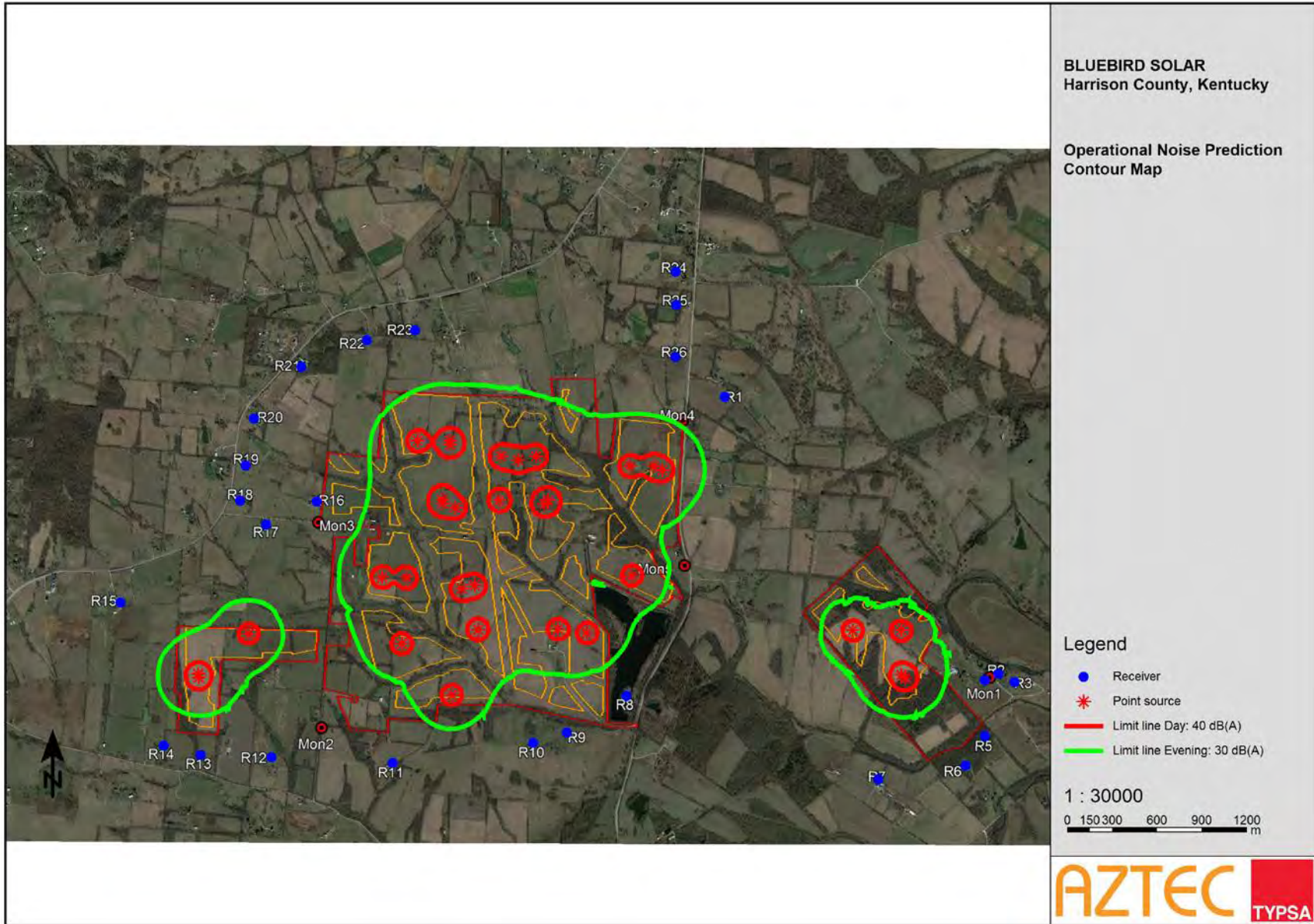
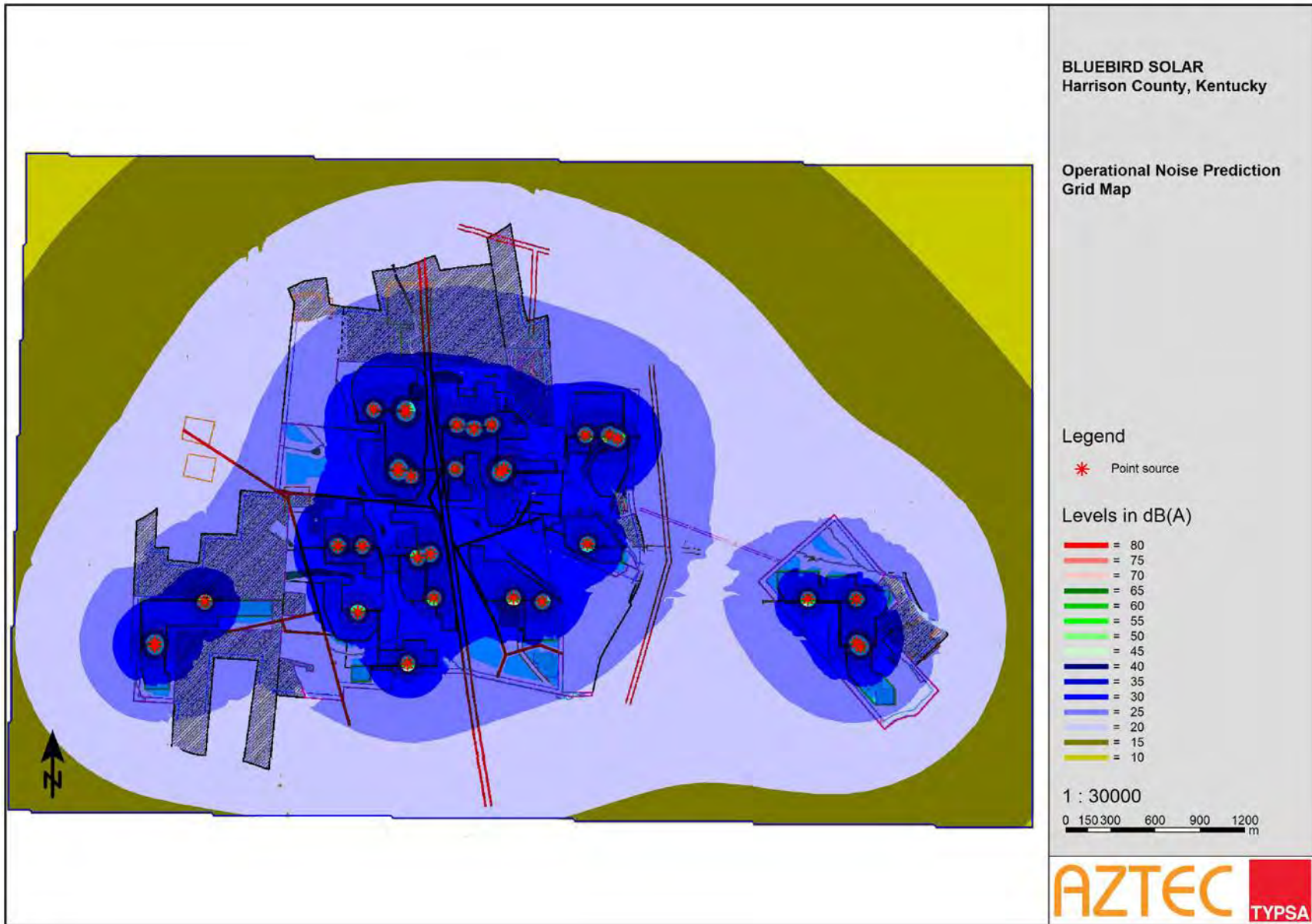


Figure 6. Operation Noise Grid Map



Conclusion

Based on background noise monitoring and noise analysis for the project operation, it is expected that the ambient noise levels in the project vicinity could be low in the 40s dBA L_{dn} . The project generated noise from equipment within the site is less than 40 dBA L_{dn} and less than 30 dBA L_{dn} at the sensitive receptors, which are far below ambient noise levels. Noise from project generated vehicular traffic and maintenance activities are minimal and will not contribute noticeably to the nearby sensitive receptors. In conclusion, the project operation noise complies with EPA standard of 55 dBA L_{dn} threshold and no noise impact would occur.

REFERENCE

Code of Federal Regulations, Title 24. Part 51.103, Revised April 1, 2005

John G. Rau and David C. Wooten, *Environmental Impact Analysis Handbook*, 1980

Environmental Protection Authority, *Environmental Criteria for Road Traffic Noise*, 1999

Ldn Consulting Inc, *Noise Assessment Centinela Solar Energy Project County of Imperial*,
September 6, 2011

Stantec Consulting Services, Inc, *Noise Assessment Ashwood 86MW Solar Facility*, December
11, 2020

APPENDIX A

Noise Level Monitoring Results

Project Number/Name: BLUEBIRD SOLAR PROJECT Date: 4/12/2021

Site Number/Description: MON 1, (Lat/Long: 33.290644, -84.339009)

Property owner driveway approximately 3 feet west of Lail Ln

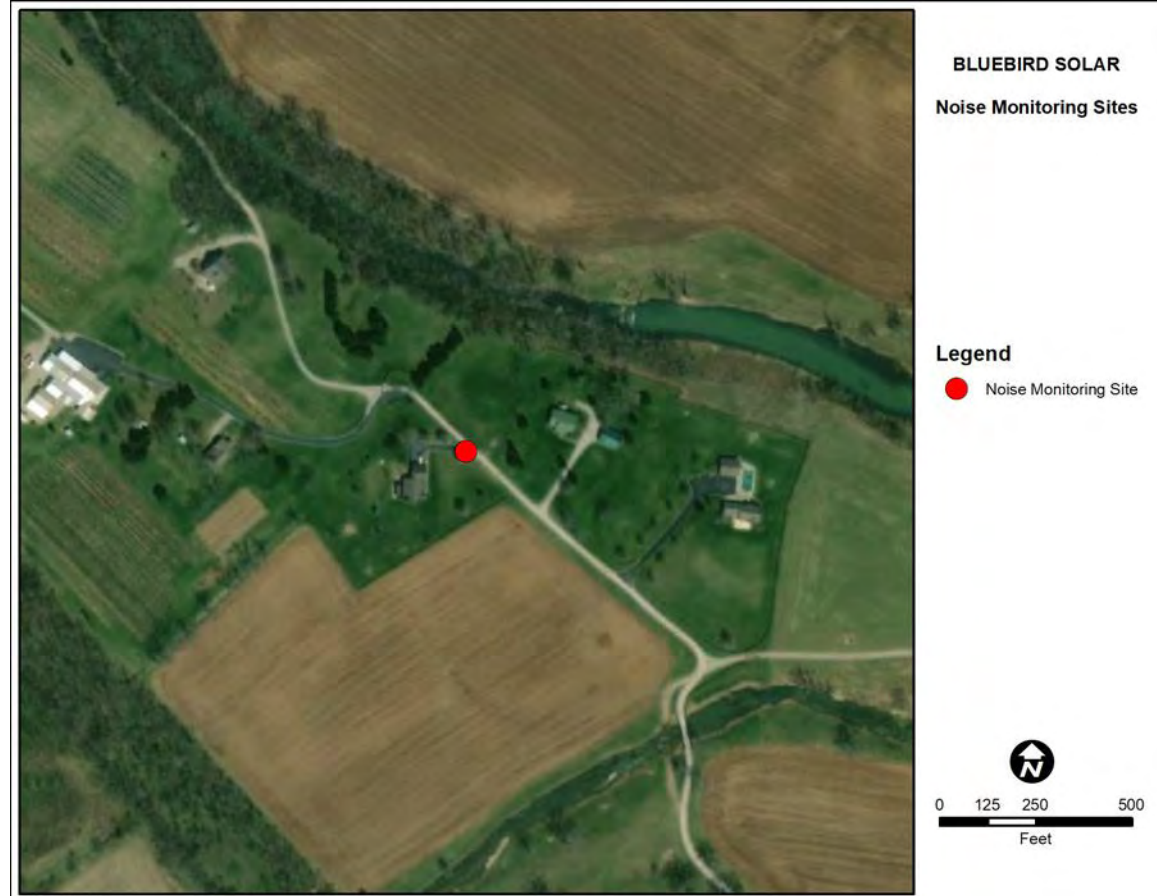
Prepared by/Crew: Brynne Taylor

Temperature: 65 °F Relative Humidity: 67 % Wind & Direction: 7.2 mph/W Sky: Partly Sunny

SLM Make/Model: LDL 824 Calibration Make/Model: LDL CA 200 @ 114.00 dB

Calibration:

Posted Speed Limit (mph): 15 Observed Speed (mph): N/A



Sample	Time		Sound Level, dBA			Traffic Count		
	Start	Duration	L _{MIN}	L _{EQ}	L _{MAX}	Auto	Med. Trk.	Hvy. Trk.
1	2:28 PM	15 mins	38.6	69.1	94.8	---	---	---

Several dogs barking and lawn mowers cutting grass on nearby properties while monitoring.



Figure 1. Looking northwest



Figure 2. Looking northeast



Figure 3. Looking southeast



Figure 4. Looking southwest



Figure 1. Looking south



Figure 2. Looking west



Figure 3. Looking north



Figure 4. Looking east



Figure 1. Looking east



Figure 2. Looking south



Figure 3. Looking west



Figure 4. Looking north



Figure 1. Looking north



Figure 2. Looking east



Figure 3. Looking south



Figure 4. Looking west

Project Number/Name: BLUEBIRD SOLAR PROJECT Date: 4/12/2021

Site Number/Description: MON 5, (Lat/Long: 38.297383, -84.362496)

Property owner driveway approximately 30 feet west of Russel Cave Rd/KY-353

Prepared by/Crew: Brynne Taylor

Temperature: 63 °F Relative Humidity: 82 % Wind & Direction: 6.8 mph/W Sky: Partly Sunny

SLM Make/Model: LDL 824 Calibration Make/Model: LDL CA 200 @ 114.00 dB

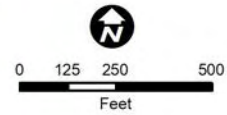
Calibration:

Posted Speed Limit (mph): 55 Observed Speed (mph): 65



BLUEBIRD SOLAR
Noise Monitoring Sites

Legend
 Noise Monitoring Site



Source: World Imagery

Sample	Time		Sound Level, dBA			Traffic Count		
	Start	Duration	L _{MIN}	L _{EQ}	L _{MAX}	Auto	Med. Trk.	Hvy. Trk.
1	1:01 PM	15 mins	36.4	57.4	75.2	---	---	---

At one point a donkey was braying and several cows started mooing on the property.



Figure 1. Looking north



Figure 2. Looking east



Figure 3. Looking south



Figure 4. Looking west

APPENDIX B

Inverter Noise Specification

TECHNICAL CHARACTERISTICS

HEM

REFERENCES	FS4010M	
OUTPUT	AC Output Power(kVA/kW) @40°C ^[1]	4010
	AC Output Power(kVA/kW) @50°C ^[1]	3720
	Operating Grid Voltage (VAC)	34.5kV ±10%
	Operating Grid Frequency (Hz)	60Hz
	Current Harmonic Distortion (THDi)	< 3% per IEEE519
	Power Factor (cosine phi) ^[3]	0.5 leading ... 0.5 lagging adjustable / Reactive power injection at night
INPUT	MPPT @Full Power (VDC) ^[4]	891V-1500V
	Maximum DC Voltage	1500V
	Number of PV Inputs ^[2]	Up to 40
	Max. DC Continuous Current (A) ^[5]	4590
	Max. DC Short Circuit Current (A) ^[5]	6940
EFFICIENCY & AUX. SUPPLY	Efficiency (Max) (η) (preliminary)	97.75% including MV transformer
	CEC (η) (preliminary)	97.48% including MV transformer
	Max. Power Consumption (kVA) (preliminary)	20
CABINET	Dimensions [WxDxH] (ft) (preliminary)	21.3 x 6.6 x 7.2
	Dimensions [WxDxH] (m) (preliminary)	6.5 x 2.0 x 2.2
	Weight (lb) (preliminary)	30865
	Weight (kg) (preliminary)	14000
	Type of Ventilation	Forced air cooling
ENVIROMENT	Degree of Protection	NEMA 3R
	Permissible Ambient Temperature	-35°C to +60°C / >50°C Active Power derating
	Relative Humidity	4% to 100% non condensing
	Max. Altitude (above sea level) ^[6]	2000m
	Noise Level ^[7]	< 79 dBA
CONTROL INTERFACE	Communication Protocol	Modbus TCP
	Plant Controller Communication	Optional
	Keyed ON/OFF Switch	Standard
PROTECTIONS	Ground Fault Protection	GFDI and Isolation monitoring device
	General AC Protection	MV Switchgear (configurable)
	General DC Protection	Fuses
	Overvoltage Protection	AC, DC Inverter and auxiliary supply type 2
CERTIFICATIONS	Safety	UL 1741, CSA 22.2 No.107.1-16
	Compliance	NEC 2017
	Utility Interconnect	IEEE 1547.1-2005 / UL 1741 SA-Feb. 2018

[1] Values at 1.00-Vac nom and cos Φ= 1.

Consult Power Electronics for derating curves.

[2] Consult Power Electronics for other configurations.

[3] Consult P-Q charts available: $Q(kVAR)=\sqrt{(S(kVA))^2-P(kW)^2}$.

[4] Consult Power Electronics for derating curves.

[5] Consult Power Electronics for Freemaq DC/DC connection configurations.

[6] Consult Power Electronics for altitudes above 1000m.

[7] Readings taken 1 meter from the back of the unit.

Data Request SITING BOARD_1_42:

Refer to the SAR, Appendix D, page 10. Provide the basis for the assumption that the sound typically produced by each panel tracking motor is 61 dBA at 5 feet or a sound power level of 73 dBA.

Response: At the time of the noise analysis, the noise specification of the tracking motor was not available. AZTEC did research and used the best available data on the web from similar solar report. Please refer to the “Compo Verde Solar Project Draft EIR” for noise specification of the array tracker motor, also shown below.

According to the *Satcon PowerGate Specifications (2009)*, the proposed Satcon PowerGate Plus 1 MW Commercial Solar PV Inverter, or equivalent, has an unshielded noise rating of less than 65 dBA at 5 feet and the array tracker motor has a noise rating of 61 dBA at 5 feet (Source: *Satcon PowerGate Specifications, 2009*). (The NEMA test results for transformers and the proposed Satcon inverters, manufacturer's specifications are provided as **Attachment A of the** Noise Assessment. This document is provided on the attached CD of Technical Appendices as **Appendix F** of this EIR).

See attached comparable solar noise report: “Compo Verde Solar Project Draft EIR”
BSLLC_R_SITING BOARD_1_42_Attachment.

Witness: David Shu

SECTION 4.8

NOISE

This section defines technical terminology used in the analysis of noise; identifies federal, state and local regulations applicable to noise; and describes the environmental setting with regard to existing ambient noise levels. This section also analyzes potential noise impacts associated with construction and operation of the proposed project. The information in this section is based on the *Noise Assessment, Campo Verde Solar, County of Imperial* prepared by Ldn Consulting, Inc. (Ldn, 2012b). This document is provided on the attached CD of Technical Appendices as **Appendix F** of this EIR.

DEFINITIONS AND TERMINOLOGY

The following discussion includes a variety of acronyms used to describe noise. To facilitate understanding of this section, the following glossary of terms is provided as an introduction to the environmental setting for noise. While some of the terms are technical in nature, these acronyms and abbreviations are essential to describe and characterize noise.

Noise is defined as unwanted or annoying sound which interferes with or disrupts normal activities. Exposure to high noise levels has been demonstrated to cause hearing loss. The individual human response to environmental noise is based on the sensitivity of that individual, the type of noise that occurs and when the noise occurs.

Measurements

Decibel (dB). The decibel (dB) is the standard unit of measurement of noise. The decibel measurement is logarithmic which means that an increase of one decibel equates to a tenfold increase in the noise level. A noise level of zero (0) dB is barely audible and is considered the threshold of human hearing while noise levels in excess of 120 dB approach the pain threshold (e.g. jet engine noise). In between these extremes a quiet rural area would have sound levels of approximately 20 dB and normal speech has a sound level of approximately 60 dB.

The smallest change in sound level detectable by the human ear is approximately 3 dB. The average person perceives a change in sound level of 10 dB as a doubling (or halving) of the level of loudness.

A-weighting/dBA. Because the human ear is unable to differentiate differences in sound levels at all frequencies, a special frequency-dependent rating scale, referred to as A-weighted sound pressure level, or dBA, has been developed to relate noise to human sensitivity. A-weighting compensates for the variability in perceived noise levels by weighing some sound frequencies more than others. The A-weighted sound level adequately describes the instantaneous noise whereas community noise is measured using dBA.

Leq. The equivalent sound level, or L_{eq} , represents a steady sound level containing the same total acoustical energy as the actual fluctuating sound level over a given time interval. L_{eq} refers to the true equivalent sound level averaged over a sample length of time.

Community Noise Equivalent Level (CNEL). The Community Noise Equivalent Level (CNEL) is the 24-hour A-weighted average for sound, with corrections for evening and nighttime hours. The corrections require an addition of 5 decibels to sound levels in the evening hours between 7 p.m. and 10 p.m. and an addition of 10 decibels to sound levels at nighttime hours between 10 p.m. and 7 a.m. These additions are made to account for the increased sensitivity during the evening and nighttime hours when sound appears louder.

For example, noise samples taken between the hours of 7 p.m. and 10 p.m. are boosted by 5 dB to reflect increased sensitivity to noise in evening hours. Similarly, noise samples taken during the overnight and early morning hours between 10 p.m. and 7 a.m. are weighted by 10 dB to reflect even

4.8 NOISE

greater sensitivity to noise during the hours when most people would be sleeping. The CNEL scale is used by Imperial County for land use/noise compatibility assessment.

Localized Noise

Sound from a small localized source (a “point” source) radiates uniformly outward as it travels away from the source. The sound level attenuates or drops-off at a rate of 6 dBA for each doubling of distance.

Mobile Noise

Because mobile/traffic noise levels are calculated on a logarithmic scale, a doubling of the traffic noise or acoustical energy results in a noise level increase of 3 dBA. Therefore the doubling of the traffic volume, without changing the vehicle speeds or mix ratio, results in a noise increase of 3 dBA. Mobile noise levels radiate in an almost oblique fashion from the source and decrease at a rate of 3 dBA for each doubling of distance under hard site conditions and at a rate of 4.5 dBA for soft site conditions. In contrast, fixed or point sources radiate outward uniformly as it travels away from the source. Point source sound levels attenuate or decrease at a rate of 6 dBA for each doubling of distance.

Noise Attenuation

Noise attenuation refers to the decline in noise level that occurs in association with increased distance from the receptor. Sounds generated from a point source typically attenuate or decrease at a rate of 6 dBA for each doubling of distance. For example, a noise level of 87 dBA measured at 50 feet from the noise source would be reduced to 81 dBA at 100 feet from the source and be further reduced to 75 dBA at 200 feet from the source. When the noise source is a continuous line (e.g., vehicle traffic on a highway), the noise levels radiate in an almost oblique fashion from the source and drop off at a rate of 3 dBA for each doubling of distance under hard site conditions (e.g. concrete, asphalt and hard pack dirt) and at a rate of 4.5 dBA for soft site conditions (e.g. areas having slight grade changes, landscaped areas and vegetation). Barriers, obstructions, and weather conditions can all affect how noise travels.

Noise Reduction Methods

The most effective noise reduction methods consist of controlling the noise at the source, blocking the noise transmission with barriers or relocating the receiver. Any or all of these methods could be required to reduce noise levels to an acceptable level.

4.8.1 REGULATORY FRAMEWORK

A. FEDERAL

The Noise Control Act of 1972 (P.L. 92-574)

The Noise Control Act and several other federal laws require the federal government to set and enforce uniform noise standards for aircraft and airports, interstate motor carriers and railroads, workplace activities, medium and heavy-duty trucks. Most federal noise standards focus on preventing hearing loss by limiting exposure to sounds of 90 dBA and higher. However, some are stricter and focus on limiting exposure to quieter levels that are annoying to most individuals and can diminish one’s quality of life.

Occupational Safety and Health Act of 1970

The Federal Occupational Safety and Health Administration (OSHA) regulates onsite noise levels and protects workers from occupational noise exposure. To protect hearing, worker noise exposure is limited to 90 decibels with A-weighting (dBA) over an 8-hour work shift (29 Code of Regulations [CFR] 1910.95). Employers are required to develop a hearing conservation program when employees are exposed to noise levels exceeding 85 dBA. These programs include provision of hearing protection devices testing employees for hearing loss on a periodic basis.

B. STATE

The California Occupational Safety and Health Administration (CalOSHA) has codified employee noise exposure limits as part of the State Occupational Noise Exposure Regulations (California Code of Regulations, Title 8, Section 5095–5099). The CalOSHA regulations are the same as the Federal OSHA standards in terms of dBA and duration.

The Governor’s Office of Planning and Research published the *State of California General Plan Guidelines 2003* to provide direction on preparation of the various elements of a General Plan. With regard to noise, “Appendix C - Guidelines for the Preparation and Content of the Noise Element of the General Plan” provides guidance for the acceptability of projects within specific noise contours. The Guidelines identify various land use categories and Table 1 of the Guidelines includes adjustment factors that may be used to arrive at noise acceptability standards that reflect the noise control goals of a specific community. Imperial County used the adjustment factors to modify the state’s Noise/Land Use Compatibility standards for the purpose of implementing the Noise Element of its General Plan.

C. LOCAL

County of Imperial General Plan

The Noise Element of the Imperial County General Plan identifies and defines existing and future environmental noise levels from sources of noise within or adjacent to the County; establishes goals and objectives to address these impacts, and provides Implementation Programs to implement these goals and objectives. **Table 4.8-1** summarizes the project’s consistency with the applicable General Plan noise policies. While this EIR analyzes the project’s consistency with the General Plan pursuant to State CEQA Guidelines Section 15125(d), the Imperial County Board of Supervisors ultimately determines consistency with the General Plan.

**TABLE 4.8-1
 IMPERIAL COUNTY GENERAL PLAN CONSISTENCY ANALYSIS**

General Plan Policies	Consistent with General Plan?	Analysis
Noise Element		
Programs and Policies		
1) Acoustical Analysis of Proposed Projects The County shall require the analysis of proposed discretionary projects which may generate excessive noise or which may be impacted by existing excessive noise levels, including but not limited to the following:	Yes	A Noise Assessment was prepared for the project by Ldn Consulting, Inc., (Ldn, 2012b). Short-term construction and long-term operational noise levels were found to be less than established

4.8 NOISE

**TABLE 4.8-1
 IMPERIAL COUNTY GENERAL PLAN CONSISTENCY ANALYSIS**

General Plan Policies	Consistent with General Plan?	Analysis
<ul style="list-style-type: none"> An analysis shall be required for any project which would be located, all or in part, in a Noise Impact Zone as specified above. An analysis shall be required for any project which has the potential to generate noise in excess of the Property Line Noise Limits stated in Table 9. An analysis shall be required for any project which, although not located in a Noise Impact Zone, has the potential to result in a significant increase in noise levels to sensitive receptors in the community. An acoustical analysis and report shall be prepared by a person deemed qualified by the Director of Planning. The report shall describe the existing noise environment, the proposed project, the projected noise impact and, if required, the proposed mitigation to ensure conformance with applicable standards. 		<p>thresholds. The proposed project is consistent with this policy.</p>
<p>2) Noise/Land Use Compatibility. Where acoustical analysis of a proposed project is required, the County shall identify and evaluate potential noise/land use conflicts that could result from the implementation of the project. Projects which result in noise levels that exceed the "Normally Acceptable" criteria of the Noise/Land Use Compatibility Guidelines, Table 7, shall include mitigation measures to eliminate or reduce to an acceptable level the adverse noise impacts.</p>	<p>Yes</p>	<p>Refer to analysis of Policy 1.</p>
<p>5) New Noise Generating Projects. The County shall identify and evaluate projects which have the potential to generate noise in excess of the Property Line Noise Limits. An acoustical analysis must be submitted which demonstrates the project's compliance.</p>	<p>Yes</p>	<p>Refer to analysis of Policy 1.</p>

**TABLE 4.8-1
 IMPERIAL COUNTY GENERAL PLAN CONSISTENCY ANALYSIS**

General Plan Policies	Consistent with General Plan?	Analysis
<p>6) Project Which Generate Off-site Traffic Noise. The acoustical analysis shall identify and evaluate projects which will generate traffic and increase noise levels on off-site roadways. If the project site has the potential to cause a significant noise impact to sensitive receptors along those roadways, the acoustical analysis report shall consider noise reduction measures to reduce the impact to a level less than significant.</p>	<p>Yes</p>	<p>Refer to analysis of Policy 1.</p>

Operational Standards

The Property Line Noise Limits listed in Table 9 of the Imperial County General Plan Noise Element and the County’s Ordinance, Title 9, Division 7 (Noise Abatement and Control) Section 90702.00 Subsection A provides acceptable Sound level limits based on the property zoning. **Table 4.8-2** identifies property line sound level limits that apply to noise generation from one property to an adjacent property.

**TABLE 4.8-2
 PROPERTY LINE NOISE LEVEL LIMITS**

Zone	Time	Applicable Limit One-hour Average Sound Level
Residential Zones	7 a.m. to 10 p.m.	50 dB
	10 p.m. to 7 a.m.	45 dB
Multi-residential Zones	7 a.m. to 10 p.m.	55 dB
	10 p.m. to 7 a.m.	50 dB
Commercial Zones	7 a.m. to 10 p.m.	60 dB
	10 p.m. to 7 a.m.	55 dB
Light Industrial/Industrial Park Zones	Anytime	70 dB
General Industrial Zones	Anytime	75 dB
<p>When the noise-generating property and the receiving property have different uses, the more restrictive standard shall apply. When the ambient noise level is equal to or exceeds the Property Line noise standard, the increase of the existing or proposed noise shall not exceed 3 dB Leq.</p> <p>The sound level limit between two zoning districts (different land uses) shall be measured at the property line between the properties.</p> <p>Fixed-location public utility distribution or transmission facilities located on or adjacent to a property line shall be subject to the noise level limits of subsection A of this section, measured at or beyond six feet from the boundary of the easement upon which the equipment is located.</p> <p>This section does not apply to noise generated by helicopters at heliports or helistops authorized by a conditional use permit.</p> <p>This section does not apply to noise generated by standard agricultural field operating practices such as planting and harvesting of crops. The County of Imperial has a Right to Farm Ordinance (1031) which serves as recognition to agricultural practices to new development. Agricultural/industrial operations shall comply with the noise levels prescribed under the general industrial zones.</p>		

Source: Ldn, 2012b.

County Ordinance, Title 9, Division 7 states that it is unlawful for any person to make or cause any noise to the extent that the one-hour average sound level, at any point on or beyond the boundaries of their property, exceeds the applicable limits shown in **Table 4.8-2**. The standards imply the existence of a

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sensitive receptor on the adjacent, or receiving, property. In the absence of a sensitive receptor, an exception or variance to the standards may be appropriate. These standards do not apply to construction noise and are intended to be enforced through the County's code enforcement program on the basis of complaints received from persons impacted by excessive noise. It is important to note that a noise nuisance may occur even though an objective measurement with a sound level meter is not available. In such cases, the County may act to restrict disturbing, excessive, or offensive noise which causes discomfort or annoyance to reasonable persons of normal sensitivity residing in an area.

Construction Noise Standards

The Noise Element of the Imperial County General Plan requires that construction noise from a single piece of equipment or a combination of equipment not exceed 75 dB Leq, when averaged over an 8-hour period, measured at the nearest sensitive receptor. This standard assumes a construction period, relative to an individual sensitive receptor for days or weeks. In cases of extended length construction times, the standard may be tightened so as not to exceed 75 dB Leq when averaged over a 1-hour period.

Construction equipment operation is required to be limited to the hours of 7 a.m. to 7 p.m., Monday through Friday, and 9 a.m. to 5 p.m. Saturday. No commercial construction operations are permitted on Sunday or holidays.

Noise/Land Use Compatibility Guidelines

Land use compatibility refers to the acceptability of a land use in a specified noise environment. **Figure 4.8-1** provides the Imperial County Noise/Land Use Compatibility Guidelines. The figure includes acceptable and unacceptable community noise exposure limits for various land use categories as currently defined by the State of California. When an acoustical analysis is performed, conformance of the proposed project with the Noise/Land Use Compatibility Guidelines is used to evaluate the potential noise impacts and provides criteria for environmental impact findings and conditions for project approval.

The increase of noise levels generally results in an adverse impact to the noise environment. The Noise/Land Use Compatibility Guidelines are not intended to allow the increase of ambient noise levels up to the maximum without consideration of feasible noise reduction measures. The following guidelines are established by the County of Imperial for the evaluation of significant noise impact.

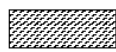
- a. If the future noise level after the Project is completed will be within the "normally acceptable" noise levels shown in the Noise/Land Use Compatibility Guidelines, but will result in an increase of 5 dB CNEL or greater, the Project will have a potentially significant noise impact and mitigation measures must be considered.
- b. If the future noise level after the Project is completed will be greater than the "normally acceptable" noise levels shown in the Noise/Land Use Compatibility Guidelines, a noise increase of 3 dB CNEL or greater shall be considered a potentially significant noise impact and mitigation measures must be considered.

Guidelines for the Determination of Significance

The Project and surrounding properties are zoned as A-2 - General Agriculture, A-2-R - General Agriculture, Rural Zone, and A-3 - Heavy Agriculture. Solar energy electrical generators, electrical power generating plants, substations, and facilities for the transmission of electrical energy are allowed as

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Land Use Category	Community Noise Exposure Ldn or CNEL, dB					
	55	60	65	70	75	80
Residential	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
Transient Lodging – Motels, Hotels	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
Schools, Libraries, Churches, Hospitals, Nursing Homes	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
Auditoriums, Concert Halls, Amphitheaters	Conditionally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Clearly Unacceptable	Clearly Unacceptable
Sports Arena, Outdoor Spectator Sports	Conditionally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Clearly Unacceptable	Clearly Unacceptable
Playgrounds, Neighborhood Parks	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable	Clearly Unacceptable
Golf Courses, Riding Stables, Water Recreation, Cemeteries	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Clearly Unacceptable	Clearly Unacceptable
Office Buildings, Business Commercial and Professional	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Clearly Unacceptable	Clearly Unacceptable
Industrial, Manufacturing Utilities, Agriculture	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Conditionally Acceptable	Clearly Unacceptable	Clearly Unacceptable



Normally Acceptable: Specified land use is satisfactory based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.



Conditionally Acceptable: New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning will normally suffice.



Normally Unacceptable: New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.



Clearly Unacceptable: New construction or development should generally not be undertaken.

Source: Imperial County General Plan, Noise Element, Table 7.

**FIGURE 4.8-1
NOISE/LAND USE COMPATIBILITY GUIDELINES**

4.8 NOISE

conditional uses in Agricultural zones. In keeping with the provisions of the zoning designation, the Applicant is seeking a Conditional Use Permit (CUP).

To be conservative, for the purposes of this analysis the most restrictive applicable sound limits identified in Section 90702.00 of the Noise Ordinance were applied to accommodate the planning of not just existing but potential future residential uses that could be adjacent to the proposed solar energy site. Section 90702.00 of the Noise Ordinance sets a residential sound level limit of 50 dBA Leq for daytime hours of 7 a.m. to 10 p.m. and 45 dBA Leq during the noise sensitive nighttime hours of 10 p.m. to 7 a.m. Most of the proposed project components will operate only during the daytime hours. However, a few components may operate during nighttime or early morning hours. Therefore the most restrictive and conservative approach is to apply the 45 dBA Leq nighttime standard at the property lines.

4.8.2 ENVIRONMENTAL SETTING

The noise analysis provided in this section is summarized from the Noise Assessment Campo Verde Solar Energy Project County of Imperial prepared by Ldn Consulting, Inc., (Ldn, 2012b). This document is provided on the attached CD of Technical Appendices as **Appendix F** of this EIR.

A. SOLAR GENERATION FACILITY

Existing Noise Levels

On-site Ambient Noise

To determine the existing noise environment and to assess potential noise impacts, noise measurements were taken at two locations on the project site to determine the worst case conditions at the nearest proposed noise sensitive land use (NSLU). The noise measurement locations were determined based on site access and noise impact potential. Both locations had a direct line of site to the adjacent roadways. Monitoring location 1 (M1) was located approximately 30-feet from Westside Road near the intersection of Vaughn Road. Monitoring location 2 (M2) was taken in the eastern portion of the site approximately 30-feet from Drew Road at the intersection of Diehl Road. **Figure 4.8-2** graphically depicts the noise monitoring locations.

The noise measurements were recorded on August 18, 2011 by Ldn Consulting between approximately 10:45 a.m. and 11:45 a.m. Noise measurements gathered at the project site were taken using a Larson-Davis Model LxT Type 1 precision sound level meter, programmed, in "slow" mode, to record noise levels in "A" weighted form. The sound level meter and microphone were mounted on a tripod, five feet above the ground and equipped with a windscreen during all measurements. The sound level meter was calibrated before and after the monitoring using a Larson-Davis calibrator, Model CAL 200.

The results of the noise measurements are presented in **Table 4.8-3**. The existing noise levels in the project area consisted primarily of low traffic volumes along Drew Road and Westside Road and background noise from distant agricultural operations on and adjacent to the site. The noise measurements were monitored for a period of 15 minutes each.

4.8 NOISE



Source: Ldn, 2012b.

**FIGURE 4.8-2
 PROJECT SITE NOISE MEASUREMENT LOCATIONS**

**TABLE 4.8-3
 PROJECT SITE AMBIENT NOISE LEVELS - MEASURED AUGUST 18, 2011**

Location	Description	Time	Noise Levels (dBA)					
			L _{eq}	L _{min}	L _{max}	L10	L50	L90
M1	Along Westside Road	10:45 a.m. – 11:00 a.m.	50.4	34.3	70.5	51.1	38.7	36.3
M2	Along Drew Road	11:30 a.m. – 11:45 a.m.	54.8	35.8	74.1	52.8	41.6	38.2

Source: Ldn, 2012b.

4.8 NOISE

The ambient Leq noise levels measured in the area of the project during the late morning and mid-day were found to be between 50 to 55 dBA Leq on the western portion of the site and 90 percent (L90) of the noise levels were in the 36 to 38 dBA range. The existing noise levels were found to be below County thresholds (identified in **Table 4.8-2**) for all sensitive land uses.

Corona Affect

The project site is located in a rural portion of Imperial County dominated by agriculture and desert. In addition to noise from agricultural operations and traffic along area roadways, the primary source of ambient noise in the area is audible power line noise generated from electric Corona discharge (i.e. the electrical ionization of the air that occurs near the surface of an energized conductor and suspension hardware due to very high electric field strength). This phenomenon is referred to as the “Corona Affect” and is usually experienced as a random crackling or hissing sound. The amount of Corona produced by a transmission line is a function of the voltage of the line, the diameter of the conductors, the locations of the conductors in relation to each other, the elevation of the line above sea level, the condition of the conductors and hardware, and the local weather conditions.

The electric field gradient is greatest at the surface of the conductor. Large-diameter conductors have lower electric field gradients at the conductor surface and, hence, lower Corona than smaller conductors. Irregularities, such as nicks and scrapes on the conductor surface, concentrate the electric field at these locations and increase the electric field gradient and thus the resulting Corona. Similarly, dust or insects on the conductor surface can cause irregularities and are a source for Corona along with moisture from fog or raindrops. Corona noise is primarily audible during wet weather conditions such as fog and rain. Heavy rain will typically generate a noise level from the falling rain drops hitting the ground that will exceed the noise generated by Corona and thereby mask the audible noise from the transmission line.

Corona increases at higher elevations where the density of the atmosphere is less than at sea level. Audible noise will vary with elevation with the relationship of $X/300$ where X is the elevation of the transmission line above sea level measured in meters (Ldn, 2012b). Audible noise at 600 meters (approximately 2,000 feet) in elevation will be twice the audible noise at 300 meters (approximately 1,000 feet), all other things being equal. The maximum Corona noise during wet weather conditions is usually less than 40 dBA at the edge of the right-of-way (ROW) (Ldn, 2012b). Corona typically becomes a design concern for transmission lines at 345-kV and above and is less noticeable from lines like the gen-tie for the project that are operated at lower voltages (i.e. 230-kV or lower).

B. GEN-TIE

The Noise Assessment focused on noise generated on the solar generation facility site, not on the portion of the gen-tie to be located on lands under the jurisdiction of the BLM. The portion of the project on BLM land would extend through undeveloped desert land within the existing Utility Corridor N. The noise setting would be dominated by noise from existing electrical facilities in Utility Corridor N. This portion of the gen-tie is undergoing separate environmental analysis under NEPA.

4.8.3 IMPACTS AND MITIGATION MEASURES

A. STANDARDS OF SIGNIFICANCE

The impact analysis provided below is based on the following State CEQA Guidelines, as listed in Appendix G. The project would result in a significant impact to noise if it would result in any of the following:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?
- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
- e) For a project located within an airport land use plan or where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

B. ISSUES SCOPED OUT AS PART OF THE INITIAL STUDY

Note that three CEQA significance criteria were scoped out as part of the Initial Study. Criterion “b” was eliminated from further analysis because operation of a solar generation facility would not create excessive groundborne vibration or noise levels. In addition, grading associated with project development is unlikely to generate groundborne vibration or noise levels through blasting or other construction related activity, as the project is characterized by flat topography. Therefore, no impact is identified for this issue area. Criteria “e” and “f” were also eliminated because the project site is not located within two miles of a public airport or a private airstrip. Thus, the project site would not be exposed to excessive aircraft noise. No impacts have been identified for these issue areas.

C. METHODOLOGY

Construction Noise

Grading

Calculations of the expected construction noise impacts were completed using a point-source noise prediction model. The essential model input data for these performance equations include the source levels of each type of equipment, relative source to receiver horizontal and vertical separations, the amount of time the equipment is operating in a given day, also referred to as the duty-cycle and any transmission loss from topography or barriers. To determine the worst-case noise levels for the grading operations no topographic attenuation or barrier reductions were used.

The noise levels used in this analysis for the mass grading and trenching operations (i.e. smoothing and compacting surface soils to prepare the site for installation of the PV panels) were based on the anticipated list of equipment provided by the Applicant (refer to **Table 4.8-4**).

PV Panel Installation

The noise levels used for the installation of the PV panels were based on the anticipated list of equipment provided by the Applicant (refer to **Table 4.8-5**).

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Off-site Traffic Noise

The off-site project related roadway segment noise levels projected in this report were calculated using the methods in the Highway Noise Model published by the Federal Highway Administration (FHWA Highway Traffic Noise Prediction Model, FHWA-RD-77-108, December, 1978). The FHWA Model uses the traffic volume, vehicle mix and speed to compute the equivalent noise level. A spreadsheet calculation was used which computes equivalent noise levels for each of the time periods used in the calculation of CNEL. Weighting these equivalent noise levels and summing them gives the CNEL for the traffic projections. The noise contours are then established by iterating the equivalent noise level until the distance to the desired noise contour(s) are found.

Because mobile/traffic noise levels are calculated on a logarithmic scale, a doubling of the traffic noise or acoustical energy results in a noise level increase of 3 dBA. Therefore the doubling of the traffic volume, without changing the vehicle speeds or mix ratio, results in a noise increase of 3 dBA. The future traffic noise model uses a typical, conservative vehicle mix of 95 percent autos, 3 percent medium trucks and 2 percent heavy trucks for all analyzed roadway segments. The vehicle mix provides the hourly distribution percentages of automobile, medium trucks and heavy trucks for input into the FHWA Model.

To determine if roadway noise level increases associated during the construction of the Project will create noise impacts, the noise levels for the existing conditions were compared with the noise level increase from the project' peak related construction traffic. The worst case construction related noise increases would occur when comparing the existing 2011 conditions prior to construction beginning in the year 2012. To be conservative, the construction phase's peak, one month, traffic volume was used. Noise contours were developed based on the Draft Traffic Impact Assessment (LOS, 2011) for the following traffic scenarios:

- Existing Year 2011: Current noise conditions without the construction of the project
- Existing Year 2011 Plus Project: Current noise conditions plus the peak construction related traffic
- Existing Year 2011 vs. Existing Year 2011 Plus Project: Comparison of the project construction traffic related noise level increases in the vicinity of the project site

Corona Affect Noise

To assess potential noise impacts from the Corona Affect, measurements were taken mid-span between two power poles along an existing San Diego Gas & Electric (SDG&E) transmission line located in the Borrego Springs area. The noise measurement location is provided graphically in **Figure 4.8-3**, denoted as Corona Measurement. The noise measurements were taken by Ldn Consulting in December 2009, between approximately 9:30 a.m. and 10:00 a.m. in dry, calm and clear conditions. The measurements were taken to determine the local conditions and to establish a baseline for the Corona Affect of the proposed gen-tie line. Sound levels for the proposed on-site equipment were obtained from the manufacture's specifications.

Noise measurements of the Corona Affect were taken using a Larson-Davis Model LxT Type 1 precision sound level meter, programmed, in "slow" mode, to record noise levels in A weighted form. The LxT was set to record in the low range of -10 to 110 dBA. The sound level meter and microphone were mounted on a tripod, five feet above the ground and equipped with a windscreen during all measurements. The sound level meter was calibrated before and after the monitoring using a Larson-

Davis calibrator, Model CAL 200. The noise measurement location was determined based on access and low ambient conditions to capture only the potential transmission line noise levels.



Source: Ldn, 2012b.

**FIGURE 4.8-3
CORONA AFFECT NOISE MEASUREMENT LOCATION**

Operational Noise

Calculations of the expected operational noise levels and potential impacts were completed using a point-source noise prediction model. The essential model input data for these performance equations include the source levels of each type of equipment, relative source to receiver horizontal and any vertical separations, the amount of time the equipment is operating in a given day, also referred to as the duty-cycle and any transmission loss from topography or barriers. To determine the worst-case noise levels for the operations no topographic attenuation, duty-cycle reductions or barrier reductions were used. A drop-off rate of 6 dBA per doubling of distance was used for all operational pieces of equipment.

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D. PROJECT IMPACTS AND MITIGATION MEASURES

Noise Levels in Excess of Standards/Substantial Temporary Noise Increase

Impact 4.8.1 Heavy equipment and traffic generated during construction would generate short-term increases in noise on and in the vicinity of the project site. This impact is considered **less than significant**.

The project construction period is expected to last from 12 to 24 months and includes all site preparation, installation of the PV panels and all utilities including the gen-tie line. Grading and subsequent installation of the utilities and the PV panels are discussed separately below.

Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment (haul trucks, water trucks, graders, dozers, loaders and scrapers) can reach relatively high levels. Grading activities represent one of the highest potential sources for noise impacts.

The U.S. Environmental Protection Agency (U.S. EPA) has compiled data regarding the noise generating characteristics of specific types of construction equipment. Noise levels generated by heavy construction equipment at a distance of 50 feet can range from 60 dBA for a small tractor up to 100 dBA for rock breakers. However, these noise levels diminish rapidly with distance from the construction site at a rate of approximately 6 dBA per doubling of distance.

Most of the construction activities will consist of clearing and grubbing the site and the trenching of utilities for the preparation of the PV panels. The equipment is anticipated to be spread out over the entire site with some equipment potentially operating near the property line while the rest of the equipment may be located over 1,000 to 2,000 feet from the same property line. This would result in an acoustical center for the grading operation of more than 500 feet from the nearest property line.

As shown in **Table 4.8-4**, if all the equipment was operating in the same location, (which is not physically possible) at a distance as close as 140 feet from the nearest property line, the point source noise

**TABLE 4.8-4
CONSTRUCTION GRADING NOISE LEVELS**

Construction Equipment	Quantity	Duty Cycle (Hours/Day)	Source Level @ 50-Foot (dBA)	Combined Noise Level @ 50-Foot (dBA Leq-8h)
Graders	2	6.8	74	76.3
Rubber Tired Dozers	2	6.8	72	74.3
Water Trucks	4	6.8	70	75.3
Other Equipment	3	8	72	76.8
Rollers	2	6.8	75	77.3
Tractors/Loaders/Backhoes	2	6.8	73	75.3
Rough Terrain Forklifts	2	1.7	72	68.3
Combined Levels @ 50 Feet (dBA)				83.9
Distance To Property Line				140
Noise Reduction Due To Distance				-8.9
NEAREST PROPERTY LINE NOISE LEVEL				75.0
County of Imperial Threshold				75
IMPACT?				NO

Source: Ldn, 2012b.

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attenuation from construction activities is -8.9 dBA. This would result in an anticipated worst case eight-hour average combined noise level of less than 75 dBA at the property line. Based on the attenuation and the spatial separation of the equipment, the noise levels would comply with the County of Imperial's 75 dBA standard at all project property lines. In addition, the project must comply with County standards regarding construction hours (i.e. construction limited to normal weekday working hours, 7 a.m. to 7 p.m., Monday through Friday). Therefore, grading noise impacts are considered less than significant.

PV Panel Installation

The installation of the PV panels would use a variety of equipment. **Table 4.8-5** summarizes the list of equipment provided by the Applicant which is anticipated to be used for PV panel installation. Based on normal installation procedures the equipment is anticipated to be spread out over the entire site similar to the mass grading operation. Some equipment will be operating near the property line while the rest of the equipment may be located over 1,000 to 2,000 feet from the same property line. This would result in an acoustical center for the PV installation operation of more than 500 feet from the nearest property line. The distance to the property lines would increase as the interior panels are installed and the noise levels would decrease due to distance.

As shown in **Table 4.8-5**, if all the equipment was operating in the same location (which is not physically possible), at a distance as close as 130 feet from the nearest property line, the point source noise attenuation from construction activities would be -8.3 dBA. This would result in an anticipated worst-case 8-hour average combined noise level of less than 75 dBA at the property line. Based on the attenuation and the spatial separation of the equipment, the noise levels would comply with the County of Imperial's 75 dBA standard at all project property lines. Therefore, construction noise impacts resulting from PV panel installation would be less than significant.

**TABLE 4.8-5
PV PANEL INSTALLATION NOISE LEVELS**

Construction Equipment	Quantity	Duty Cycle (Hours/Day)	Source Level @ 50-Feet(dBA)	Combined Noise Level @ 50-Feet (dBA Leq-8h)
Rough Terrain Forklifts	8	1.7	72	74.3
Cranes	4	1.8	75	74.5
Generator Sets	1	8	74	74.0
Tractors/Loaders/Backhoes	1	8	73	73.0
Air Compressors	2	4	76	76.0
Forklifts	2	7	72	74.4
Water Trucks	3	2	70	68.8
Aerial Lifts	1	8	70	70.0
Crawler Tractors	1	8	72	72.0
Combined Levels @ 50 Feet (dBA)				83.0
Distance To Property Line				130
Noise Reduction Due To Distance				-8.3
NEAREST PROPERTY LINE NOISE LEVEL				74.7
County of Imperial Threshold				75
IMPACT?				NO

Source: Ldn, 2012b.

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Roadway Noise

Table 4.8-6 provides the noise levels and the distances to the 60 dBA CNEL contours for the roadways in the vicinity of the project site for the Existing Year 2011 Scenario without project construction traffic. As shown the noise level at 50-feet would range from 51.3 to 68.8 dBA CNEL.

**TABLE 4.8-6
 EXISTING TRAFFIC NOISE LEVELS (WITHOUT PROJECT)**

Roadway Segment	ADT ¹	Vehicle Speeds (MPH) ¹	Noise Level @ 50-Feet (dBA CNEL)	60 dBA CNEL Contour Distance (Feet)
Diehl Road				
Derrick Road to Drew Road	199	40	51.3	13
Drew Road				
Evan Hewes Highway to I-8	2,443	55	65.3	112
I-8 to Diehl Road	1,033	55	61.5	63
Diehl Road to SR-98	512	55	58.5	40
Evan Hewes Highway				
Derrick Road to Drew Road	2,954	40	63.0	79
Drew Road to Forrester Road	2,843	40	62.8	77
Forrester Road				
Evan Hewes Highway to I-8	5,551	55	68.8	194

Source, Ldn, 2012b. ¹ Campo Verde Solar Draft Traffic Impact Analysis prepared by LOS Engineering, Inc., 2012.

In contrast to **Table 4.8-6**, **Table 4.8-7** shows the Existing Year 2011 Plus Project construction traffic. Note that the values given do not take into account any noise barriers or topography that may affect ambient noise levels. As shown the noise level at 50-feet would range from 58.8 to 69.3 dBA CNEL.

**TABLE 4.8-7
 EXISTING PLUS PROJECT TRAFFIC NOISE LEVELS**

Roadway Segment	ADT ¹	Vehicle Speeds (MPH) ¹	Noise Level @ 50-Feet (dBA CNEL)	60 dBA CNEL Contour Distance (Feet)
Diehl Road				
Derrick Road to Drew Road	1,128	40	58.8	42
Drew Road				
Evan Hewes Highway to I-8	2,589	55	65.5	117
I-8 to Diehl Road	1,912	55	64.2	95
Diehl Road to SR-98	639	55	59.5	46
Evan Hewes Highway				
Derrick Road to Drew Road	3,142	40	63.3	83
Drew Road to Forrester Road	3,031	40	63.1	81
Forrester Road				
Evan Hewes Highway to I-8	6,145	55	69.3	208

Source: Ldn, 2012b. ¹ Source: Campo Verde Solar Draft Traffic Impact Analysis prepared by LOS Engineering, Inc., 2012.

Table 4.8-8 presents the comparison of the Existing Year 2011 with and without Project related noise levels. The overall roadway segment noise levels will increase from 0.3 dBA CNEL to 12.9 dBA CNEL during the construction of the project based on the anticipated project related construction traffic.

**TABLE 4.8-8
 EXISTING VS. EXISTING PLUS PROJECT TRAFFIC NOISE LEVELS**

Roadway Segment	Existing Noise Level @ 50-Foot (dBA CNEL)	Existing Plus Project Noise Level @ 50-Foot (dBA CNEL)	Project Related Noise Level Increase (dBA CNEL)	County Noise Increase Threshold	Potential Impact?
Diehl Road					
Derrick Road to Drew Road	51.3	58.8	7.5	5	Yes
Drew Road					
Evan Hewes Highway to I-8	65.3	65.5	0.3	3	No
I-8 to Diehl Road	61.5	64.2	2.7	3	No
Diehl Road to SR-98	58.5	59.5	1.0	5	No
Evan Hewes Highway					
Derrick Road to Drew Road	63.0	63.3	0.3	3	No
Drew Road to Forrester Road	62.8	63.1	0.3	3	No
Forrester Road					
Evan Hewes Highway to I-8	68.8	69.3	0.4	3	No

Source: Ldn, 2012b.

Sound Levels provided are worst-case and do not take into account topography or shielding from barriers.

As shown in **bold** in the last column of **Table 4.8-8**, project construction traffic creates a short-term noise increases during the peak construction of more than 5 dBA CNEL on the segment of Diehl Road from Derrick Road to Drew Road. However, the noise level is below the 60 dBA CNEL threshold and in the “normally acceptable” category. Additionally, no sensitive receptors exist along this roadway segment. Therefore, construction roadway noise impacts are considered less than significant.

Mitigation Measures

None required.

Significance After Mitigation

Not applicable.

Noise Levels in Excess of Standards/Substantial Permanent Noise Increase

Impact 4.8.2 The proposed project would generate noise associated with operation of on-site equipment. This impact is considered **less than significant**.

Stationary noise sources associated with operation of the proposed project include noise from the transformers, inverters, substation and the gen-tie. The project proposes the installation of up to 170 small-scale, above ground enclosures and shelters that would be located within the PV module fields to shade inverter/distributor transformers and switching gear. These structures would have a footprint approximately 9-feet by 30-feet in size and be approximately 10 feet in height at the roof apex. The enclosures will be constructed of either metal or concrete and designed for outdoor use. The shelters would be open on the sides and constructed of wood and steel and would be neutral in color. Each of these locations may house a Satcon PowerGate Plus 1 MW Commercial Solar PV Inverters, or equivalent, and one of the smaller transformers necessary to increase the voltage.

The transformer and inverter locations would be spread out over the site with one transformer and one inverter grouped next to each other (called a Power Conversion Station (PCS)). The project also

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proposes an on-site substation, switchyard and O&M Building in the southern portion of the site west of Liebert Road north of the Westside Main Canal. **Figure 4.3-4** depicts the proposed substation, a typical inverter / transformer, and PV array. The electric power produced by the project would be conveyed to the existing system with the incorporation of a new 230-kV gen-tie transmission line extending from the site to the Imperial Valley Substation (refer to **Figure 2.0-4**, in Chapter 2.0). The proposed transmission lines may increase a phenomenon referred to as the “Corona Affect” along the new gen-tie route. The operational noise levels from the proposed on site small-scale inverter/transformer structures along with the substation equipment and the offsite Corona Affect are analyzed separately below.

Transformer/Inverter and Array Tracker Noise Levels

The project may use two different small-scaled transformers as part of the proposed inverter/transformer sites along with array tracker motors. The two smaller transformers consist of a 1 megavolt-amp (MVA) from 200 volt (V) to 12-kV and a 1-MVA from 12-V to 34.5-. A larger transformer is proposed as part of the project’s onsite substation. As identified in the *National Electric Manufactures Association (NEMA) Publication No. TR 1-1993*, the unshielded noise levels for these two small-scaled transformers and the larger transformer, respectively, are:

- 1 MVA from 200V to 12-kV - 58 dBA @ 5 feet
- 1 MVA from 12V to 34.5-kV - 58 dBA @ 5 feet
- 20 MVA from 34.5 to 69-kV - 71 dBA @ 5 feet

According to the *Satcon PowerGate Specifications* (2009), the proposed Satcon PowerGate Plus 1 MW Commercial Solar PV Inverter, or equivalent, has an unshielded noise rating of less than 65 dBA at 5 feet and the array tracker motor has a noise rating of 61 dBA at 5 feet (*Source: Satcon PowerGate Specifications, 2009*). (The NEMA test results for transformers and the proposed Satcon inverters, manufacturer’s specifications are provided **as Attachment A of the Noise Assessment**. This document is provided on the attached CD of Technical Appendices as **Appendix F** of this EIR).

The worst case property line noise levels would occur where a transformer/inverter and array tracker motor are located approximately 269-feet from the property (refer to **Figure 4.8-4**) along Liebert Road. Currently the adjacent properties are zoned for agricultural uses. To be conservative, the most restrictive residential nighttime property line standard of 45 dBA was used so that if a future residence or residential development are constructed the proposed Project will still be in compliance with the County standards. The noise levels of 58 dBA for the transformer, 65 dBA for the inverter and 61 dBA for the array tracker motor were combined and propagated out to the property line without any shielding. The results of the propagated noise levels are shown in **Table 4.8-9**.

**TABLE 4.8-9
 TRANSFORMER/INVERTER AND TRACKER NOISE – NEAREST PROPERTY LINE**

Source	Noise Level @ 5-Foot (dBA) ¹	Distance to Nearest Property Line (Feet)	Noise Reduction due to distance (dBA)	Resultant Noise Level @ Property Line (dBA Leq)	Property Line Standard (dBA Leq)	Impact?
Transformer	58.0	75	-34.6	23.4	45	No
Inverter	65.0	75	-34.6	30.4	45	No
Array Tracker	61.0	75	-34.6	26.4	45	No
Cumulative Noise Level @ Property Line (dBA)				32.4	45	No

Source: Ldn, 2012b.

¹ Noise data provided as an attachment to this report.

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The location and relationships of the on-site substation, transformer/inverter and the nearest property line for the project configuration are shown in **Figure 4.8-4**. To determine the noise levels at the property line, the noise levels of 58 dBA from the transformer, 65 dBA for the inverter, 61 dBA from the array tracker motor and 71 dBA for the larger transformer at the substation were all combined and propagated out to the nearest property line without any shielding from the proposed buildings. The results of the combined operational noise levels for are provided in **Table 4.8-10**.

**TABLE 4.8-10
COMBINED OPERATIONAL PROPERTY LINE NOISE LEVELS**

Source	Measurement Distance from Source (Feet)	Measured Noise Level (dBA)	Distance to Nearest Property Line (Feet)	Noise Reduction due to distance (dBA)	Resultant Noise Level @ Property Line (dBA Leq)	Property Line Standard (dBA Leq)	Impact?
Transformer	5	58.0	75	-34.6	23.4	45	No
Inverter	5	65.0	75	-34.6	30.4	45	No
Array Tracker	5	61.0	75	-34.6	26.4	45	No
Substation	5	71.0	300+	-35.6	35.4	45	No
Combined Noise Level @ Property Line (dBA)					37.2	45	No

Source: Ldn, 2012b.

¹ Noise data provided in Appendix F of this EIR.

As shown, the combined noise levels at the nearest property line were projected to be 37.2 dBA Leq and no noise impacts are anticipated from the on-site substation in the southern portion of the project site. The substation in combination with the pad mounted transformer/inverters and array tracker motors would comply with the County’s most restrictive property line standard of 45 dBA Leq. No additional analysis is needed and no impacts are anticipated. Therefore, combined operational noise impacts resulting from on-site equipment would be less than significant.

Corona Noise

To determine the Corona Affect of the proposed gen-tie transmission line, noise measurements were previously taken along an existing SDG&E transmission line in the Borrego Springs area (refer to **Figure 4.8-2**). The measurements were taken for a different solar power project that is similar to the proposed project and can therefore be used to estimated Corona noise from the proposed project. The short-term measurements were conducted by Ldn Consulting December 4, 2009.

Due to ambient noise (airplanes, automobiles and birds) only one-minute measurements could be taken without the results being affected by factors other than the existing transmission lines. During the noise measurements, the crackling or hissing of the transmission lines was slightly audible and the weather conditions were dry and calm. The results of the measurements are provided in **Table 4.8-11**.

As can be seen in **Table 4.8-11**, during dry conditions, the noise levels from the Corona were very low (below 20 dBA). During moist or wet conditions the Corona noise can double. This would result in a noise level of 35 to 37 dBA which is consistent with previous studies and modeling efforts undertaken by the Electric Power Research Institute (EPRI) and CH₂M Hill for the Cross Valley Transmission Line project conducted for Southern California Edison 2008. The Corona is not limited to only project-related power transmission. Rather it is based on the transmission lines at full capacity and therefore represents Corna associated with the cumulative transmission of power through the line.

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**TABLE 4.8-11
 MEASURED CORONA NOISE LEVELS - MEASURED DECEMBER 4, 2009**

Location	Time	One Hour Noise Levels (dBA)						Property Line Standard (dBA L_{eq})	Impact ?
		L_{eq}	L_{min}	L_{max}	L_{10}	L_{50}	L_{90}		
Transmission Lines Borrego Springs	9:35–9:36 a.m.	17.6	16.7	22.7	18.7	17.0	16.8	45	No
Transmission Lines Borrego Springs	9:37–9:38 a.m.	18.3	17.4	27.2	19.3	18.1	17.7	45	No

Source: Ldn, 2012b.

Proposed Project Substation Noise Levels

The onsite substation is proposed in the southern portion of the site west of Liebert Road north of the Westside Main Canal (please refer to **Figure 4.8-4**). The substation is 300 feet or more from the nearest property line to the south. The transformer at the substation would have noise level of 71 dBA at a distance of 5 feet. The reduction in the noise level at a distance of 300 feet is -35.6 dBA resulting in a noise level below 36 dBA at the nearest property line from the substation. Thus, the proposed substation would comply with the County’s most restrictive property line standard of 45 dBA L_{eq} and no additional analysis is needed for the substation. Noise generated by the project substation would result in a less than significant impact.

Operational Traffic Noise Impacts

During operations and maintenance, the project will primarily operate during daylight hours and will require (on average) less than 10 full-time personnel for operations and maintenance. Operations personnel include employees running the facility, security, and any other work associated with the operations. Maintenance personnel include employees addressing maintenance on a daily basis. On average, the operations and maintenance trip generation is estimated at about 20 ADT with approximately 10 AM and 10 PM peak hour trips. Although panel washing is not anticipated to be necessary, for purposes of this analysis it is assumed that during a typical year, the project may require up to 10 daily water trucks for panel washing over approximately 15 business days, with the frequency of washing estimated from one to four times a year. During the washing period, the total project daily traffic may increase to 40 or 50 ADT over a 15 business day period.

Operations and maintenance traffic generation is minimal compared to the existing traffic volumes. Therefore, the project’s operational traffic would result in a less than significant noise impact at existing or future noise sensitive land.

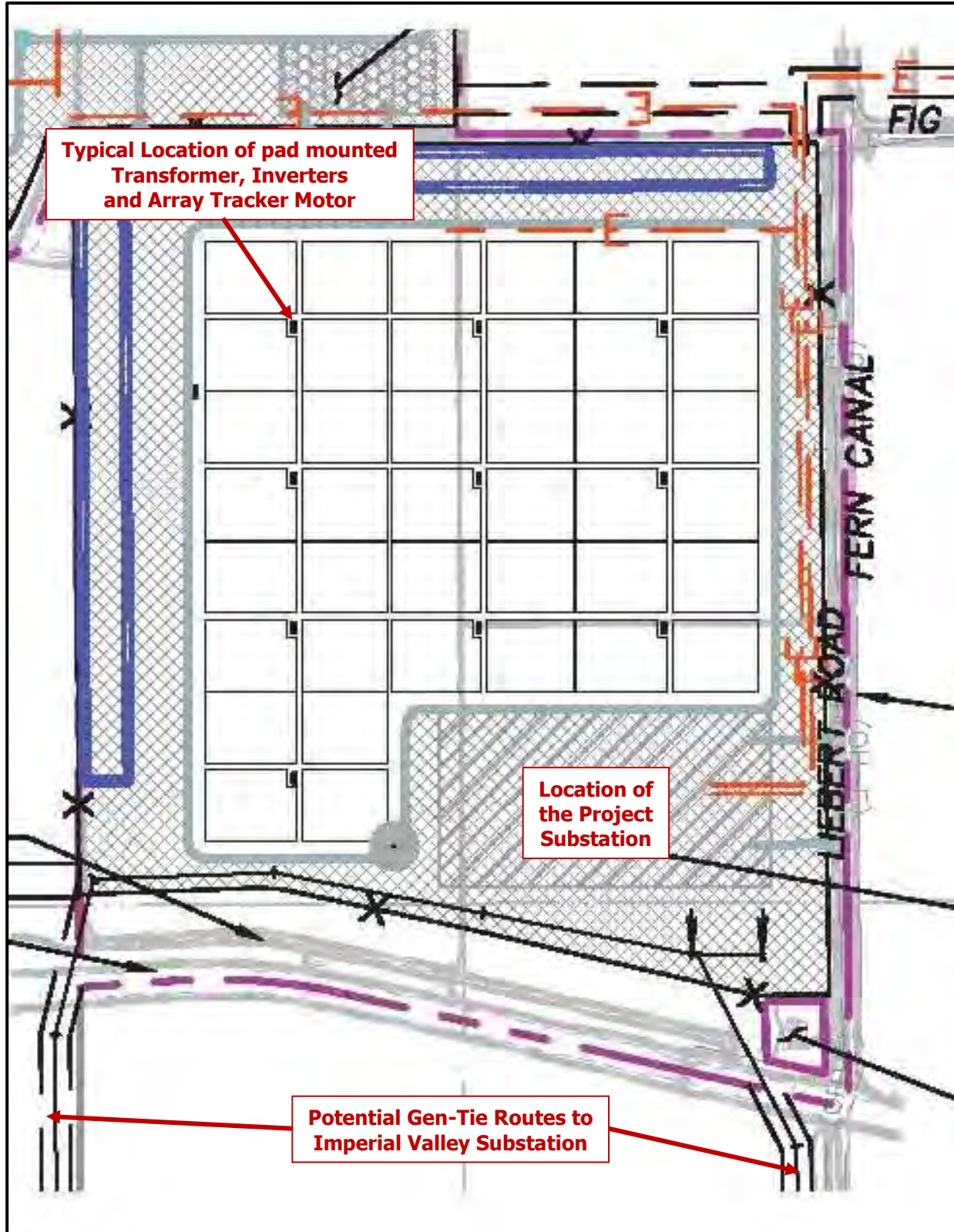
Mitigation Measures

None required.

Significance After Mitigation

Not applicable.

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Source: Ldn, 2012b.

**FIGURE 4.8-4
PROPOSED EQUIPMENT LOCATIONS**

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4.8.4 CUMULATIVE SETTING, IMPACTS AND MITIGATION MEASURES

A. CUMULATIVE SETTING

The geographic scope for cumulative noise impacts is based on the traffic analysis which examined a total of 11 intersections, 7 roadway segments and 2 freeway segments in the study area. The selected intersections, roadway segments and freeway segments were confirmed by County staff and are listed in Table 4.3-5, Table 4.3-6 and Table 4.3-7 in Section 4.3, Transportation and Circulation. The cumulative projects are identified Table 3.0-1 in Chapter 3.0, Introduction to the Environmental Analysis and Assumptions Used. Noise levels within the vicinity of the project site primarily consist of traffic along area roadways.

A. CUMULATIVE IMPACTS AND MITIGATION MEASURES

Cumulative Noise Increases

Impact 4.8.3 Construction and operation of the proposed project could incrementally contribute to the existing noise environment. This impact is considered **less than cumulatively considerable**.

Cumulative Construction Noise

To determine if cumulative off-site noise level increases associated with the peak construction of the proposed project and other planned or permitted projects in the vicinity would create noise impacts, the noise levels for the peak construction period of the project and other planned and permitted projects were compared with the existing opening year conditions. To be conservative, one month peak construction traffic volume was used. Noise contours were developed based on the Traffic Impact Assessment (LOS, 2012) for the following traffic scenarios:

- Existing Year 2011 Plus Project Plus Cumulative Projects: Current day noise conditions plus the peak construction period of the project and other permitted or planned projects.
- Existing Year 2011 vs. Existing Year 2011 Plus Project Plus Cumulative: Comparison of the existing noise levels and the related noise level increases from the combination of the proposed project peak construction traffic and all other planned or permitted projects in the vicinity of the site.

Noise levels for the Existing Year 2011 Scenario and the distances to the 60 dBA CNEL contours for the roadways in the vicinity of the project site were previously shown in **Table 4.8-6**. The cumulative noise conditions are provided in **Table 4.8-12**. No noise barriers or topography that could affect noise levels were incorporated in the calculations.

As shown in **Table 4.8-12**, the noise level at 50-feet would range from 58.8 to 69.8 dBA CNEL.

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**TABLE 4.8-12
 EXISTING PLUS PROJECT PLUS CUMULATIVE TRAFFIC NOISE LEVELS**

Roadway Segment	ADT ¹	Vehicle Speeds (MPH) ¹	Noise Level @ 50-Foot (dBA CNEL)	60 dBA CNEL Contour Distance (Feet)
Diehl Road				
Derrick Road to Drew Road	1,128	40	58.8	42
Drew Road				
Evan Hewes Highway to I-8	2,915	55	66.0	126
I-8 to Diehl Road	3,339	55	66.6	138
Diehl Road to SR-98	2,066	55	64.6	101
Evan Hewes Highway				
Derrick Road to Drew Road	3,529	40	63.8	89
Drew Road to Forrester Road	3,449	40	63.7	88
Forrester Road				
Evan Hewes Highway to I-8	6,996	55	69.8	227

SOURCE: LDN, 2012B.

¹Source: Campo Verde Solar Draft Traffic Impact Analysis prepared by LOS Engineering, Inc., 2012.

Table 4.8-13 presents the comparison of the Existing Year 2011 and the Existing Year 2011 plus Project and Cumulative noise levels. As shown the noise level would increase from 0.8 to 7.5 dBA CNEL. Traffic related short-term noise increases during the peak construction of the Project and Cumulative Projects has the potential to increase noise levels more than the acceptable limit on three roadway segments as can be seen in **bold** in the last column of **Table 4.8-13**.

**TABLE 4.8-13
 EXISTING VS. EXISTING PLUS PROJECT PLUS CUMULATIVE TRAFFIC NOISE LEVELS**

Roadway Segment	Existing Noise Level @ 50-Foot (dBA CNEL)	Existing Plus Project Plus Cumulative Noise Level @ 50-Foot (dBA CNEL)	Cumulative Related Noise Level Increase (dBA CNEL)	County Noise Increase Threshold	Potential Impact?
Diehl Road					
Derrick Road to Drew Road	51.3	58.8	7.5	5	Yes
Drew Road					
Evan Hewes Highway to I-8	65.3	66.0	0.8	3	No
I-8 to Diehl Road	61.5	66.6	5.1	3	Yes
Diehl Road to SR-98	58.5	64.6	6.1	5	Yes
Evan Hewes Highway					
Derrick Road to Drew Road	63.0	63.8	0.8	3	No
Drew Road to Forrester Road	62.8	63.7	0.8	3	No
Forrester Road					
Evan Hewes Highway to I-8	68.8	69.8	1.0	3	No

SOURCE: LDN, 2012B.

Sound Levels provided are worst-case and do not take into account topography or shielding from barriers.

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However, the project would not be expected to incrementally add to the roadway traffic noise levels of any “reasonably foreseeable” projects as they are either: 1) not anticipated to coincide with the peak traffic period (first quarter of 2013 and only for a one month period) of the proposed project; or 2) the prescribed worst-case construction noise levels would be separated by enough distance and not cumulatively add to one another. Therefore, the project’s traffic noise contribution to cumulative traffic noise during construction is considered less than cumulatively considerable.

Cumulative Operational Traffic Noise

During operations and maintenance, the project would primarily operate during daylight hours and would require (on average) less than 10 full-time personnel for operations and maintenance. Operations personnel include employees running the facility, security, and any other work associated with the operations. Maintenance personnel include employees addressing maintenance on a daily basis. On average, the operations and maintenance trip generation is estimated at about 20 average daily trips (ADT) with approximately 10 a.m. and 10 p.m. peak hour trips. Although panel washing is not anticipated to be necessary, for purposes of this analysis it is assumed that during a typical year, the project may require up to 10 daily water trucks for panel washing over approximately 15 business days, with the frequency of washing estimated from one to four times a year. During the washing period, the total project daily traffic may increase to 40 or 50 ADT over a 15 business day period. Compared to the existing traffic volumes, operations and maintenance traffic generation is minimal. Furthermore, existing or future noise sensitive land uses would not be adversely affected by the increase in noise because the project’s operational traffic would result in a less than cumulatively considerable contribution to cumulative traffic noise. Therefore, cumulative operational noise would result in a **less than cumulatively considerable impact**.

Mitigation Measures

None required.

Significance After Mitigation

Not applicable.

Decommissioning Noise Impacts

It is reasonable to assume that noise impacts from decommissioning activity will be similar to construction of the project. Accordingly, the noise contribution of the project during decommissioning is expected to be **less than cumulatively considerable**.

Data Request SITING BOARD_1_43:

Refer to the SAR, Appendix D, page 10. Provide the basis for the assumption that the sound typically produced by each inverter is 65 dBA at 5 feet or a sound power level of 77 dBA.

Response: Per Bluebird Solar Operation Noise Analysis Report, dated July 31, 2021, included in this filing as an attachment to SITING BOARD_1_42. The inverter model is Power Electronics FS4010M (see attached PDF Datasheet_HEM Gen3_0210311.pdf). According to its specification, its noise level is less than 79 dBA measured at 1 meter from the back of the unit. To be conservative, a noise level of 79 dBA at 1 meter was used to estimate inverter noise, which equates to a sound power level of 87 dBA.

See attached model specification documentation: "Datasheet_HEM Gen3_0210311.pdf"
BSLLC_R_SITING BOARD_1_43_Attachment.

Witness: David Shu

TECHNICAL CHARACTERISTICS

HEM

REFERENCES	FS4200M	
OUTPUT	AC Output Power (kVA/kW) @40°C ^[1]	4200
	AC Output Power (kVA/kW) @50°C ^[1]	3900
	Operating Grid Voltage (VAC)	34.5kV ±10%
	Operating Grid Frequency (Hz)	60Hz
	Current Harmonic Distortion (THDi)	< 3% per IEEE519
	Power Factor (cosine phi) ^[3]	0.5 leading ... 0.5 lagging adjustable / Reactive power injection at night
INPUT	MPPT @Full Power (VDC) ^[4]	934V-1500V
	Maximum DC Voltage	1500V
	Number of PV Inputs ^[2]	Up to 40
	Max. DC Continuous Current (A) ^[5]	4590
	Max. DC Short Circuit Current (A) ^[5]	6940
EFFICIENCY & AUX. SUPPLY	Efficiency (Max) (η) (preliminary)	97.80% including MV transformer
	CEC (η) (preliminary)	97.51% including MV transformer
	Max. Power Consumption (kVA) (preliminary)	20
CABINET	Dimensions [WxDxH] (ft) (preliminary)	21.3 x 6.6 x 7.2
	Dimensions [WxDxH] (m) (preliminary)	6.5 x 2.0 x 2.2
	Weight (lb) (preliminary)	30865
	Weight (kg) (preliminary)	14000
	Type of Ventilation	Forced air cooling
ENVIROMENT	Degree of Protection	NEMA 3R
	Permissible Ambient Temperature	-35°C to +60°C / >50°C Active Power derating
	Relative Humidity	4% to 100% non condensing
	Max. Altitude (above sea level) ^[6]	2000m
	Noise Level ^[7]	< 79 dBA
CONTROL INTERFACE	Communication Protocol	Modbus TCP
	Plant Controller Communication	Optional
	Keyed ON/OFF Switch	Standard
PROTECTIONS	Ground Fault Protection	GFDI and Isolation monitoring device
	General AC Protection	MV Switchgear (configurable)
	General DC Protection	Fuses
	Overvoltage Protection	AC, DC Inverter and auxiliary supply type 2
CERTIFICATIONS	Safety	UL 1741, CSA 22.2 No.107.1-16
	Compliance	NEC 2017
	Utility Interconnect	IEEE 1547.1-2005 / UL 1741 SA-Feb. 2018

[1] Values at 1.00-Vac nom and cos Φ= 1.

Consult Power Electronics for derating curves.

[2] Consult Power Electronics for other configurations.

[3] Consult P-Q charts available: $Q(kVAr)=\sqrt{(S(kVA))^2-P(kW)^2}$.

[4] Consult Power Electronics for derating curves.

[5] Consult Power Electronics for Freemaq DC/DC connection configurations.

[6] Consult Power Electronics for altitudes above 1000m.

[7] Readings taken 1 meter from the back of the unit.

TECHNICAL CHARACTERISTICS

HEM

REFERENCES	FS4105M	
OUTPUT	AC Output Power(kVA/kW) @40°C ^[1]	4105
	AC Output Power(kVA/kW) @50°C ^[1]	3810
	Operating Grid Voltage (VAC)	34.5kV ±10%
	Operating Grid Frequency (Hz)	60Hz
	Current Harmonic Distortion (THDi)	< 3% per IEEE519
	Power Factor (cosine phi) ^[3]	0.5 leading ... 0.5 lagging adjustable / Reactive power injection at night
INPUT	MPPT @Full Power (VDC) ^[4]	913V-1500V
	Maximum DC Voltage	1500V
	Number of PV Inputs ^[2]	Up to 40
	Max. DC Continuous Current (A) ^[5]	4590
	Max. DC Short Circuit Current (A) ^[5]	6940
EFFICIENCY & AUX. SUPPLY	Efficiency (Max) (η) (preliminary)	97.76% including MV transformer
	CEC (η) (preliminary)	97.50% including MV transformer
	Max. Power Consumption (kVA) (preliminary)	20
CABINET	Dimensions [WxDxH] (ft) (preliminary)	21.3 x 6.6 x 7.2
	Dimensions [WxDxH] (m) (preliminary)	6.5 x 2.0 x 2.2
	Weight (lb) (preliminary)	30865
	Weight (kg) (preliminary)	14000
	Type of Ventilation	Forced air cooling
ENVIROMENT	Degree of Protection	NEMA 3R
	Permissible Ambient Temperature	-35°C to +60°C / >50°C Active Power derating
	Relative Humidity	4% to 100% non condensing
	Max. Altitude (above sea level) ^[6]	2000m
	Noise Level ^[7]	< 79 dBA
CONTROL INTERFACE	Communication protocol	Modbus TCP
	Plant Controller Communication	Optional
	Keyed ON/OFF Switch	Standard
PROTECTIONS	Ground Fault Protection	GFDI and Isolation monitoring device
	General AC Protection	MV Switchgear (configurable)
	General DC Protection	Fuses
	Overvoltage Protection	AC, DC Inverter and auxiliary supply type 2
CERTIFICATIONS	Safety	UL 1741, CSA 22.2 No.107.1-16
	Compliance	NEC 2017
	Utility Interconnect	IEEE 1547.1-2005 / UL 1741 SA-Feb. 2018

[1] Values at 1.00-Vac nom and cos Φ= 1.

Consult Power Electronics for derating curves.

[2] Consult Power Electronics for other configurations.

[3] Consult P-Q charts available: $Q(kVAr)=\sqrt{(S(kVA))^2-P(kW)^2}$.

[4] Consult Power Electronics for derating curves.

[5] Consult Power Electronics for Freemaq DC/DC connection configurations.

[6] Consult Power Electronics for altitudes above 1000m.

[7] Readings taken 1 meter from the back of the unit.

TECHNICAL CHARACTERISTICS

HEM

REFERENCES	FS4010M	
OUTPUT	AC Output Power(kVA/kW) @40°C ^[1]	4010
	AC Output Power(kVA/kW) @50°C ^[1]	3720
	Operating Grid Voltage (VAC)	34.5kV ±10%
	Operating Grid Frequency (Hz)	60Hz
	Current Harmonic Distortion (THDi)	< 3% per IEEE519
	Power Factor (cosine phi) ^[3]	0.5 leading ... 0.5 lagging adjustable / Reactive power injection at night
INPUT	MPPT @Full Power (VDC) ^[4]	891V-1500V
	Maximum DC Voltage	1500V
	Number of PV Inputs ^[2]	Up to 40
	Max. DC Continuous Current (A) ^[5]	4590
	Max. DC Short Circuit Current (A) ^[5]	6940
EFFICIENCY & AUX. SUPPLY	Efficiency (Max) (η) (preliminary)	97.75% including MV transformer
	CEC (η) (preliminary)	97.48% including MV transformer
	Max. Power Consumption (kVA) (preliminary)	20
CABINET	Dimensions [WxDxH] (ft) (preliminary)	21.3 x 6.6 x 7.2
	Dimensions [WxDxH] (m) (preliminary)	6.5 x 2.0 x 2.2
	Weight (lb) (preliminary)	30865
	Weight (kg) (preliminary)	14000
	Type of Ventilation	Forced air cooling
ENVIROMENT	Degree of Protection	NEMA 3R
	Permissible Ambient Temperature	-35°C to +60°C / >50°C Active Power derating
	Relative Humidity	4% to 100% non condensing
	Max. Altitude (above sea level) ^[6]	2000m
	Noise Level ^[7]	< 79 dBA
CONTROL INTERFACE	Communication Protocol	Modbus TCP
	Plant Controller Communication	Optional
	Keyed ON/OFF Switch	Standard
PROTECTIONS	Ground Fault Protection	GFDI and Isolation monitoring device
	General AC Protection	MV Switchgear (configurable)
	General DC Protection	Fuses
	Oversvoltage Protection	AC, DC Inverter and auxiliary supply type 2
CERTIFICATIONS	Safety	UL 1741, CSA 22.2 No.107.1-16
	Compliance	NEC 2017
	Utility Interconnect	IEEE 1547.1-2005 / UL 1741 SA-Feb. 2018

[1] Values at 1.00-Vac nom and cos Φ= 1.

Consult Power Electronics for derating curves.

[2] Consult Power Electronics for other configurations.

[3] Consult P-Q charts available: $Q(kVAr)=\sqrt{(S(kVA))^2-P(kW)^2}$.

[4] Consult Power Electronics for derating curves.

[5] Consult Power Electronics for Freemaq DC/DC connection configurations.

[6] Consult Power Electronics for altitudes above 1000m.

[7] Readings taken 1 meter from the back of the unit.

Data Request SITING BOARD_1_44:

Refer to the SAR, Appendix D, page 10. Provide the basis for the assumption that the sound typically produced by each small-scale transformer is 58 dBA at 5 feet or a sound power level of 70 dBA.

Response: At the time of the noise analysis, the noise specification of a small-scale transformer was not available. AZTEC did research and used the best available data on the web from similar solar report. Please refer to the “Noise Assessment, Borrego 1 Solar Project” for noise specification of a small transformer, also shown below.

Table 0-3
AUDIBLE SOUND LEVELS FOR LIQUID-IMMERSED
DISTRIBUTION TRANSFORMERS AND NETWORK TRANSFORMERS

Equivalent Two-winding kVA	Average Sound Level, Decibels
0-50	48
51-100	51
101-300	55
301-500	56
750	57
Small Transformer 1000	58
1500	60
2000	61
2500	62

See attached comparable solar noise report: “Noise Assessment Borrego 1 Solar Project”
BSLLC_R_SITING BOARD_1_44_Attachment.

Witness: David Shu

NOISE ASSESSMENT

**Borrego 1 Solar Project
MUP 3300-10-026
Environmental Review Number 10-050-01
APN 140-290-12**

Lead Agency:

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January 14, 2011

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GLOSSARY OF TERMS

Sound Pressure Level (SPL): a ratio of one sound pressure to a reference pressure (L_{ref}) of 20 μ Pa. Because of the dynamic range of the human ear, the ratio is calculated logarithmically by $20 \log (L/L_{ref})$.

A-weighted Sound Pressure Level (dBA): Some frequencies of noise are more noticeable than others. To compensate for this fact, different sound frequencies are weighted more.

Minimum Sound Level (L_{min}): Minimum SPL or the lowest SPL measured over the time interval using the A-weighted network and slow time weighting.

Maximum Sound Level (L_{max}): Maximum SPL or the highest SPL measured over the time interval the A-weighted network and slow time weighting.

Equivalent sound level (L_{eq}): the true equivalent sound level measured over the run time. L_{eq} is the A-weighted steady sound level that contains the same total acoustical energy as the actual fluctuating sound level.

Day Night Sound Level (Ldn): Representing the Day/Night sound level, this measurement is a 24 –hour average sound level where 10 dB is added to all the readings that occur between 10 pm and 7 am. This is primarily used in community noise regulations where there is a 10 dB “Penalty” for night time noise. Typically Ldn’s are measured using A weighting.

Community Noise Exposure Level (CNEL): The accumulated exposure to sound measured in a 24-hour sampling interval and artificially boosted during certain hours. For CNEL, samples taken between 7 pm and 10 pm are boosted by 5 dB; samples taken between 10 pm and 7 am are boosted by 10 dB.

Octave Band: An octave band is defined as a frequency band whose upper band-edge frequency is twice the lower band frequency.

Third-Octave Band: A third-octave band is defined as a frequency band whose upper band-edge frequency is 1.26 times the lower band frequency.

Response Time (F,S,I): The response time is a standardized exponential time weighting of the input signal according to fast (F), slow (S) or impulse (I) time response relationships. Time response can be described with a time constant. The time constants for fast, slow and impulse responses are 1.0 seconds, 0.125 seconds and 0.35 milliseconds, respectively.

EXECUTIVE SUMMARY

This noise study has been completed to determine the noise impacts associated with the development of the proposed Borrego 1 Solar Project located on a single parcel totaling approximately 308 gross acres. The Project is located in the unincorporated community of Borrego Springs in eastern portion of San Diego County, CA.

Based on the empirical data, the manufactures specifications, and the distances to the property lines, the unshielded cumulative noise levels from the proposed transformers/inverters and the site Substation were found to be below the most restrictive nighttime property line (zoned S-92) standard of 45 dBA at all property lines. No impacts are anticipated and no mitigation is required.

The measured Corona Affect noise levels associated with the 69 kV gen-tie line were found to be below the County of San Diego's most restrictive nighttime standard of 45 dBA. This was also consistent with previously measured and modeled noise levels on transmission line projects throughout California. No impacts from the Corona Affect are anticipated from the new transmission lines associated with the proposed Project.

At a distance as close as 165 feet, the point source noise attenuation from the grading activities and the nearest property line is -10.4 dBA. This would result in an anticipated worst case eight-hour average combined noise level of 74.9 dBA at the property line. During the installation of the PV panels, a noise level of 74.9 dBA would result at a distance of 275 feet. The installation equipment is anticipated to average a distance of more than 300 feet from the nearest property line. Given this and the spatial separation of the equipment over the large site area, the noise levels of the grading and PV panel installation are anticipated to comply with the County of San Diego's 75 dBA standard at all Project property lines.

Additionally, the County Noise Ordinance Section 36.409 (c), states that the 75 dBA threshold pertains to a property having a legal dwelling unit. Some of the properties adjacent the Project site do not have a legal dwelling unit are therefore are exempt from Section 36.409. Therefore no impacts are anticipated from the grading or PV panel installation operations at any property line and no mitigation or additional analysis is warranted.

1.0 INTRODUCTION

This noise study was completed to determine the noise impacts associated with the development of the proposed Borrego 1 Solar Project. The Project is located at 33° 17' 31" N and 116° 21' 12" W, at the southwest corner of Henderson Canyon Road and Borrego Valley Road in the Borrego Springs Community located within the County of San Diego. The general location of the Project is shown on the Vicinity Map, Figure 1-A.

1.1 Project Description

The Borrego 1 Solar Project is a proposed photovoltaic (PV) solar generating facility. The Project Site is approximately 308 acres of private land that has previously been used for agriculture.

The Project's PV panels will be mounted either on fixed tilt supports or single-axis trackers. If built using fixed tilt mounting, the Project will be built in two phases – the first phase being 26 MWac (32 MWdc) and the second being about 9 MWac (11 MWdc). If built using single-axis trackers, the Project will be built out in one phase of approximately 26 MWac (31 MWdc).

The main project access will be located at the southeast corner of the site on Borrego Valley Road with a secondary access on Henderson Canyon Road. No sewer service or potable water is required as the facility would be unmanned. Water would be used for dust suppression during construction and the Project would use approximately two acre-feet of water annually during operation for cleaning the solar panels. This water will be provided from an existing well on a nearby property and trucked to the site when needed.

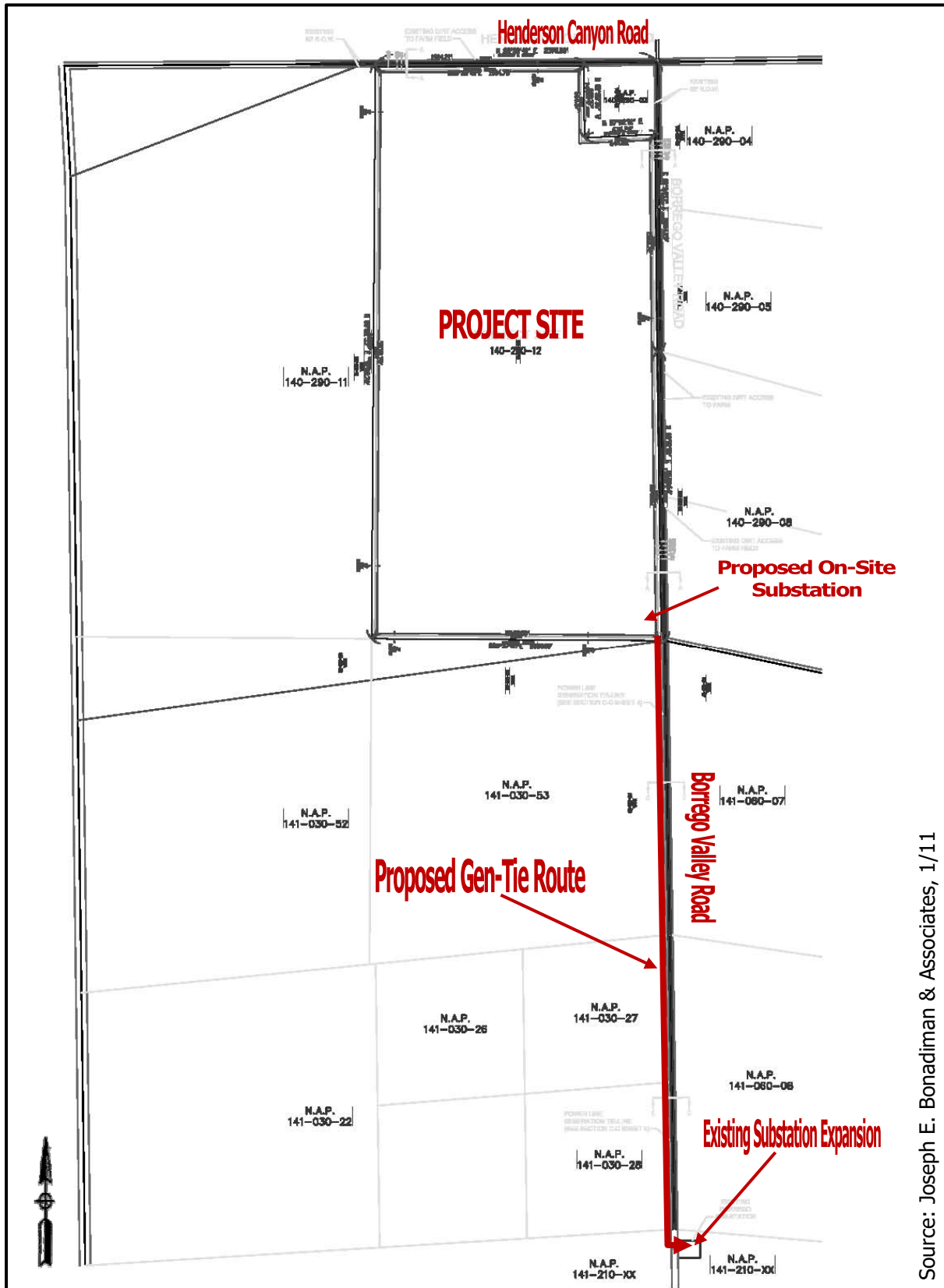
The site would be grubbed to remove existing vegetation and almost no grading would be necessary as it is already level. The soil surface will be smoothed and compacted to prepare the site for installation of the solar panels. The construction period for the 26 MW phase (using either mounting system) is expected to be a 4 to 6 month timeframe.

The only off-site improvement associated with the Project is a 69kV generation-tie (gen-tie) transmission line from the site to SDG&E's existing Borrego Substation. The proposed gen-tie line is approximately one mile in length and would be located within the disturbed right-of-way on the west side of Borrego Valley Road. The interconnection at the existing substation would occur within its current footprint. The general project layout, existing SDG&E substation location and proposed Gen-Tie line route can be seen in Figure 1-B. The site plans for the two potential configurations used for this analysis are shown on Figure 1-C and Figure 1-D below.

Figure 1-A: Project Vicinity Map



Figure 1-B: Project Site and Existing SDG&E Substation Layout



1.2 Environmental Settings & Existing Conditions

a) Settings & Locations

The Project would consist of a PV solar generation project on a single parcel of land, with additional lands affected to allow for transport of the power generated to the existing Borrego Substation. The County Assessor Parcel Number (APN) affected by the proposed Project for the main facilities include 141-230-26 (approximately 308 acres). The main project access will be located at the eastern edge of the site on Borrego Valley Road with a secondary access on Henderson Canyon Road. The zoning for the Project parcel and all surrounding land uses is General Rural (S-92).

b) Existing Noise Conditions

The Project is located adjacent to Borrego Valley Road and Henderson Canyon Road and previously used for agriculture. Both Borrego Valley Road and Henderson Canyon Road are described as Light Collector (2.2E) roadways in the County of San Diego's Circulation Element. Existing noise occurs mainly from vehicular traffic traveling on the adjacent roadways, agricultural equipment and air traffic from the nearby airport.

1.3 Methodology and Equipment

a) Noise Measuring Methodology and Procedures

To determine the ambient noise environment and to assess potential noise impacts, measurements of the Corona Affect were taken along an existing SDGE 69 kV transmission line located in the area. This was done to determine the local conditions and to establish a baseline for the Corona Affect of the proposed gen-tie transmission line. The noise measurements were recorded on December 4, 2009 by Ldn Consulting, Inc. between approximately 9:30 a.m. and 10:00 a.m. in dry, calm and clear conditions. The sound levels for the proposed on-site equipment were taken from the manufacture's specifications.

Noise measurements were taken using a Larson-Davis Model LxT Type 1 precision sound level meter, programmed, in "slow" mode, to record noise levels in "A" weighted form. The LxT was set to record in the low range of -10 to 110 dBA. The sound level meter and microphone were mounted on a tripod, five feet above the ground and equipped with a windscreen during all measurements. The sound level meter was calibrated before and after the monitoring using a Larson-Davis calibrator, Model CAL 200.

The noise measurement location was determined based on site access and low ambient conditions to capture only the potential transmission line noise levels. The 69 kV transmission line

measurements were taken mid-span between two power poles along an existing San Diego Gas & Electric (SDGE) easement. The noise measurement location and relationship to the proposed Project location is provided graphically in Figure 1-E, denoted by the SDGE Easement marker.

Figure 1-E: Corona Affect Noise Measurement Location



b) Noise Calculations and Factors

Noise is defined as unwanted or annoying sound which interferes with or disrupts normal activities. Exposure to high noise levels has been demonstrated to cause hearing loss. The individual human response to environmental noise is based on the sensitivity of that individual, the type of noise that occurs and when the noise occurs.

Sound is measured on a logarithmic scale consisting of sound pressure levels known as a

decibel (dB). The sounds heard by humans typically do not consist of a single frequency but of a broadband of frequencies having different sound pressure levels. The method for evaluating all the frequencies of the sound is to apply an A-weighting to reflect how the human ear responds to the different sound levels at different frequencies. The A-weighted sound level adequately describes the instantaneous noise whereas the equivalent sound level depicted as L_{eq} represents a steady sound level containing the same total acoustical energy as the actual fluctuating sound level over a given time interval.

The Community Noise Equivalent Level (CNEL) is the 24 hour A-weighted average for sound, with corrections for evening and nighttime hours. The corrections require an addition of 5 decibels to sound levels in the evening hours between 7 p.m. and 10 p.m. and an addition of 10 decibels to sound levels at nighttime hours between 10 p.m. and 7 a.m. These additions are made to account for the increased sensitivity during the evening and nighttime hours when sound appears louder.

Because mobile/traffic noise levels are calculated on a logarithmic scale, a doubling of the traffic noise or acoustical energy results in a noise level increase of 3 dBA. Therefore the doubling of the traffic volume, without changing the vehicle speeds or mix ratio, results in a noise increase of 3 dBA. Mobile noise levels radiate in an almost oblique fashion from the source and drop off at a rate of 3 dBA for each doubling of distance under hard site conditions and at a rate of 4.5 dBA for soft site conditions. Hard site conditions consist of concrete, asphalt and hard pack dirt while soft site conditions exist in areas having slight grade changes, landscaped areas and vegetation. On the other hand, fixed/point sources radiate outward uniformly as it travels away from the source. Their sound levels attenuate or drop off at a rate of 6 dBA for each doubling of distance.

The most effective noise reduction methods consist of controlling the noise at the source, blocking the noise transmission with barriers or relocating the receiver. Any or all of these methods could be required to reduce noise levels to an acceptable level.

2.0 OPERATIONAL ACTIVITIES

2.1 Guidelines for the Determination of Significance

Section 36.404 of the County of San Diego noise ordinance provides performance standards and noise control guidelines for determining and mitigating non-transportation, or stationary, noise source impacts to adjacent properties. The purpose of the noise ordinance is to protect, create and maintain an environment free from noise that may jeopardize the health or welfare, or degrade the quality of life.

The County Noise Ordinance states that it shall be unlawful for any person to cause or allow the creation of any noise to the extent that the one-hour average sound level, at any point on or beyond the boundaries of the property exceeds the applicable limits provided in Table 2-1.

Table 2-1: Sound Level Limits in Decibels (dBA)

ZONE		APPLICABLE LIMIT ONE-HOUR AVERAGE SOUND LEVEL (DECIBELS)
R-S, R-D, R-R, R-MH, A-70, A-72, S-80, S-81, S-87, S-88, S-90, S-92, R-V, and R-U Use Regulations with a density of less than 11 dwelling units per acre.	7 a.m. to 10 p.m.	50
	10 p.m. to 7 a.m.	45
R-RO, R-C, R-M, C-30, S-86, R-V, R-U and V5. Use Regulations with a density of 11 or more dwelling units per acre.	7 a.m. to 10 p.m.	55
	10 p.m. to 7 a.m.	50
S-94, V4, and all other commercial zones.	7 a.m. to 10 p.m.	60
	10 p.m. to 7 a.m.	55
V1, V2	7 a.m. to 7 p.m.	60
V1, V2	7 p.m. to 10 p.m.	55
V1	10 p.m. to 7 a.m.	55
V2	10 p.m. to 7 a.m.	50
V3	7 a.m. to 10 p.m.	70
	10 p.m. to 7 a.m.	65
M-50, M-52, M-54	Anytime	70
S-82, M-58, and all other industrial zones.	Anytime	75

Source: County of San Diego Noise Ordinance Section 36.404

As stated above in Section 1, the Project and surrounding properties are zoned General Rural (S-92). Section 36.404 of the Noise Ordinance sets a most restrictive operational exterior noise limit for the S-92 and residential noise sensitive land uses of 50 dBA Leq for daytime hours of 7 a.m. to 10 p.m. and 45 dBA Leq during the noise sensitive nighttime hours of 10 p.m. to 7 a.m.

as shown in Table 2-1 above. Most of the Project components will only operate during the daytime hours but a few may operate during nighttime or early morning hours and therefore the most restrictive and conservative approach is to apply the 45 dBA Leq nighttime standard at the property lines.

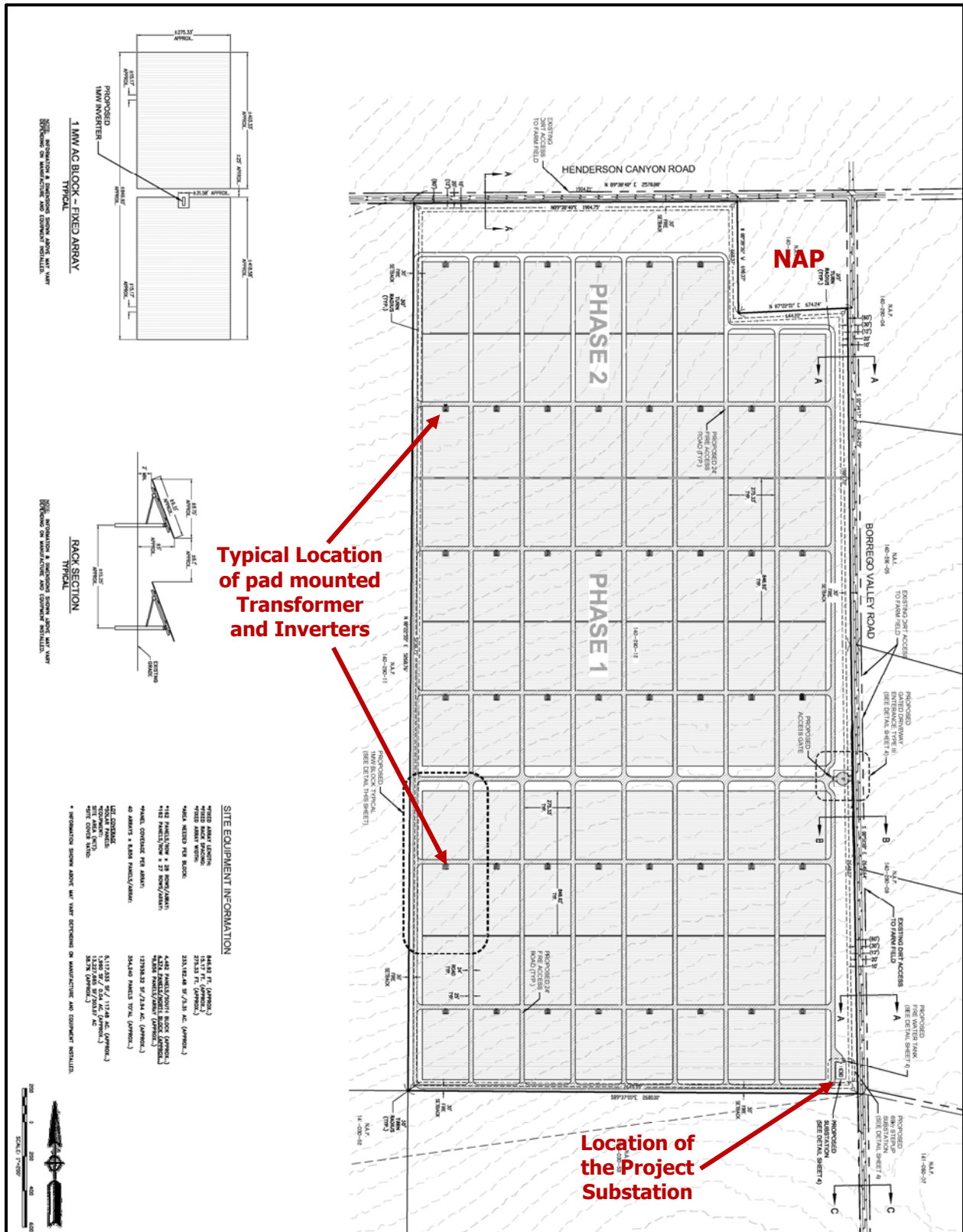
2.2 Potential Operational Noise Impacts

This section examines the potential stationary noise source impacts associated with the operation of the proposed Borrego 1 Solar Project. Specifically, noise levels from the proposed transformers, inverters, the substation and the transmission lines. Panels would be electrically connected into panel strings using wiring attached to the racking. Panel strings would be electrically connected to each other via underground wiring. Wire depths would be in accordance with local, State, and Federal codes. Gathering lines would connect individual panel strings to one or more inverters/transformers and combiner boxes distributed throughout the facility. Wiring from the panel strings are connected to combiner boxes. The electrical current is then transferred to the inverters, which convert the Direct Current (DC) produced by the PV panels into Alternating Current (AC). A pad-mounted transformer next to the inverter would increase the voltage. The AC would then travel through underground gathering lines to the Project Substation.

The Project proposes the installation of up to 46 small-scale, above ground structures that would be located within the solar panel fields to shade inverter/distributor transformers and switching gear. These structures would be approximately 9 foot by 30 foot in size and 10 feet high at the roof apex. They would be open on the sides and constructed of wood and steel and would be beige or neutral in color. Each of these locations will house a Satcon PowerGate Plus 1 MW Commercial Solar PV Inverters, or equivalent, and one of the smaller transformers necessary to increase the voltage. The transformer and inverter locations will be spread out over the site with one transformer and one inverter grouped next to each other. The Project also proposes a project Substation located at the southeast corner of the site. The proposed inverter / transformer locations and the Substation location for the fixed array configuration can be seen in Figures 2-A and 2-B for the "fixed" and "tracker" configurations, respectively.

The electric power produced by the Project will be feed into the existing system with the incorporation of a new 69 kV Gen-Tie transmission line running from the site to the existing Borrego Valley Road Substation to the south as shown previously in Figure 1-B. The Project does not plan to install any improvements at the existing Borrego Substation that could affect the noise levels. The new transmission lines may increase a phenomenon referred to as the "Corona Affect" along the new transmission route. The operational noise levels from the proposed on site small-scale inverter/transformer buildings along with the Substation equipment and the offsite Corona Affect are analyzed separately below.

Figure 2-A: Proposed Equipment Locations (Fixed Array)



2.2.1 Operational Noise Levels On-site

The Project is proposing two different small-scaled transformers as part of the 46 proposed inverter / transformer sites. The two smaller transformers consist of a 1 MVA from 200V to 12 kV and a 1 MVA from 12V to 34.5 kV. A larger transformer is proposed as part of the Project's site substation and a 20 MVA from 34.5 to 69 kV. The unshielded noise levels for these two small-scaled transformers and the larger transformer are provided below, respectively (*Source: National Electric Manufactures Association (NEMA) Publication No. TR 1-1993*):

1. 1 MVA from 200V to 12 kV - guaranteed 58 dBA @ 5 feet
2. 1 MVA from 12V to 34.5 kV - guaranteed 58 dBA @ 5 feet
3. 20 MVA from 34.5 to 69 kV - guaranteed 71 dBA @ 5 feet

As mention above, there will be up to 46 locations throughout the site with an inverter along with a small transformer. The proposed Satcon PowerGate Plus 1 MW Commercial Solar PV Inverter, or equivalent, has an unshielded noise rating of less than 65 dBA at 5 feet (*Source: Satcon PowerGate Specifications, 2009*). The NEMA test results for transformers and the proposed Satcon inverters manufacturer's specifications are provided as **Attachment A** of this report.

Based upon the Project site layout and the adjacent property zoning two potential impacts may occur. The first potential impact is located along the western property line where the transformer/inverter locations are 60 feet from the property line. The second potential impact is located along the southern and eastern property lines where the site Substation and the transformer/inverter locations could combine to create a cumulative impact. All other proposed pieces of equipment on the site are located farther from the property line and no impacts are anticipated. The two worst case scenarios were analyzed separately below to determine if impacts would occur and if additional analysis of more pieces of equipment is warranted and if any mitigation measures will be required.

Transformer and Inverter Noise Levels

The worst case property line noise levels will occur where a transformer/inverter location is 186 feet from the western property in the fixed array configuration which is zoned S-92 and has a nighttime property line standard of 45 dBA. Under the tracker array configuration the transformer/inverters are located over 400 feet from the nearest property line. The location and relationship to the western property line for the fixed array configuration is shown in Figure 2-C below. The two noise levels of 58 dBA for the transformer and 65 dBA for the inverter were combined and propagated out to the western property line without any shielding. The results of the propagated noise levels are shown in Table 2-2.

Figure 2-C: Worst Case Property Line Orientation (Western PL)

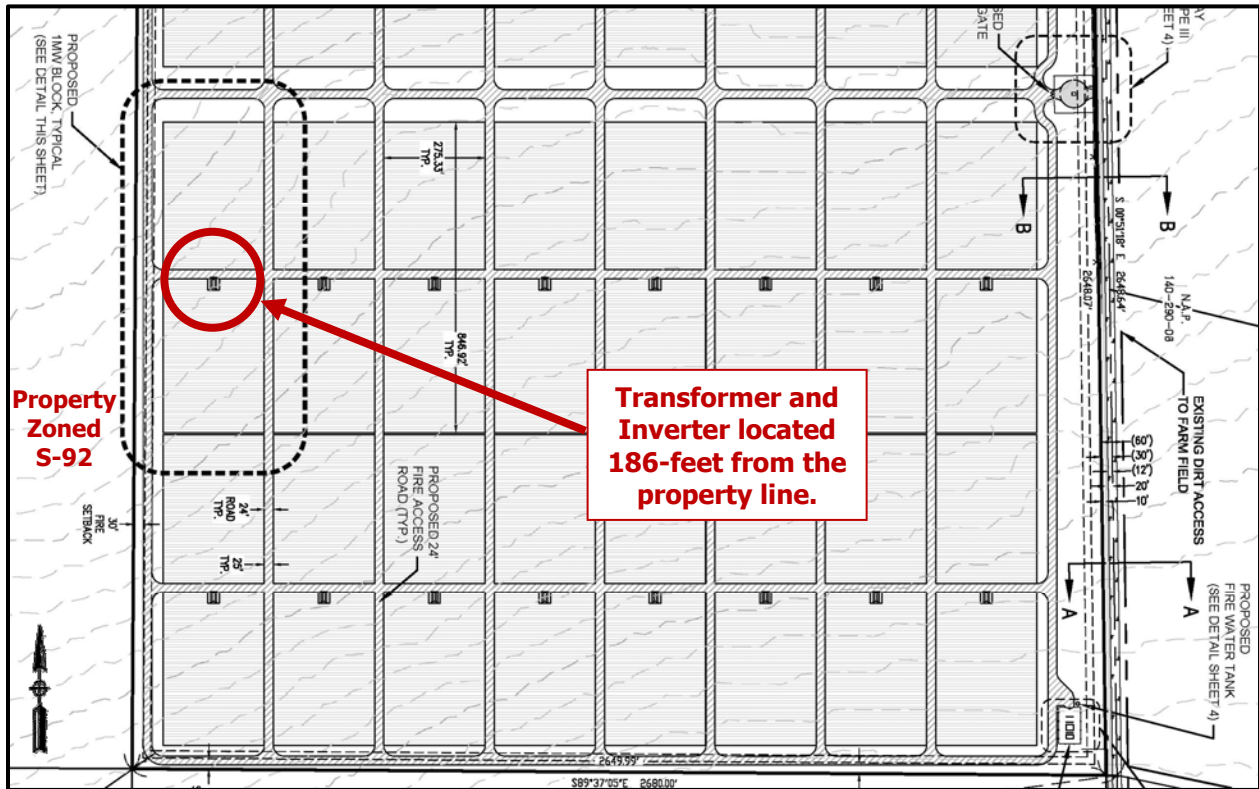


Table 2-2: Transformer/Inverter Noise Levels – Nearest Property Line

Source	Noise Level @ 5-Feet (dBA) ¹	Distance to Nearest Property Line (Feet)	Noise Reduction due to distance (dBA)	Resultant Noise Level @ Property Line (dBA)
Transformer	58.0	186	-31.4	26.6
Inverter	65.0	186	-31.4	33.6
Cumulative Noise Level @ Property Line (dBA)				34.4

¹ Noise data provided as an attachment to this report

The combined noise level at the nearest property line was projected to be 34.4 dBA Leq and no impacts are anticipated. In fact, at a distance of 55 feet or more the transformers/inverters, unshielded, will comply with the most restrictive property line standards and no future analysis is needed for the transform/inverters. The transformers/inverters will be covered by shade structures which will further reduce the noise levels. Additionally, the transformers/inverters are located 280 feet or more from each other and will not cumulatively raise the noise levels at the nearest property line due to distance.

Substation Noise Levels

The worst case property line noise levels will occur near the southwest corner of the Project site where the site Substation is proposed. In the fixed array and track array configurations the Substation is located 105 feet from the southern property line and 145 feet from the eastern property line. A single small-scaled transformer/inverter location is between 370 feet to 580 feet from the nearest property line depending on the configuration. The location and relationships of the Substation, nearest transformer/inverter, and the southern and eastern property lines for the fixed and tracker array configurations are provided in Figure 2-D and 2-E, respectively.

Figure 2-D: Property Line Orientation (Fixed Array)

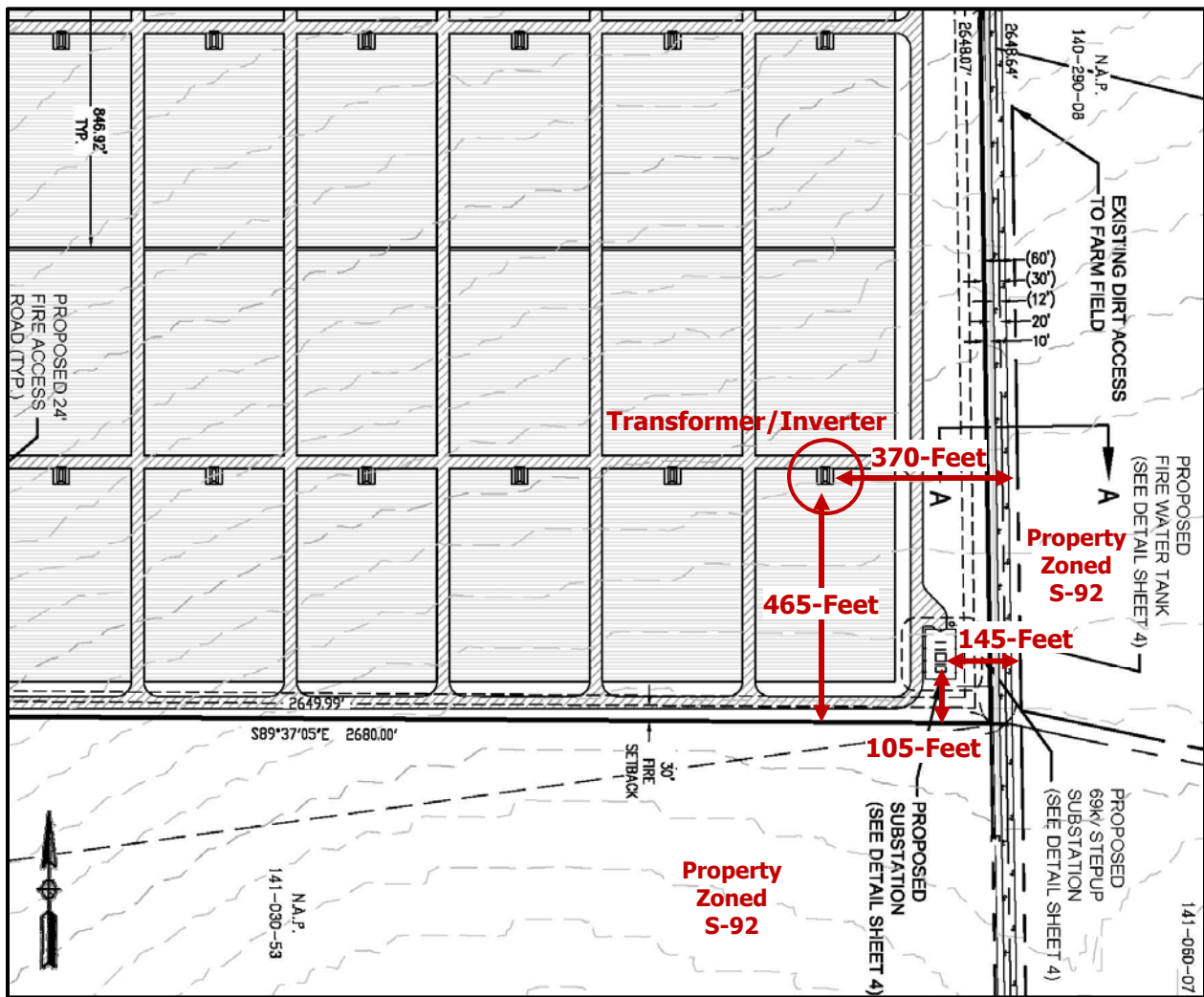
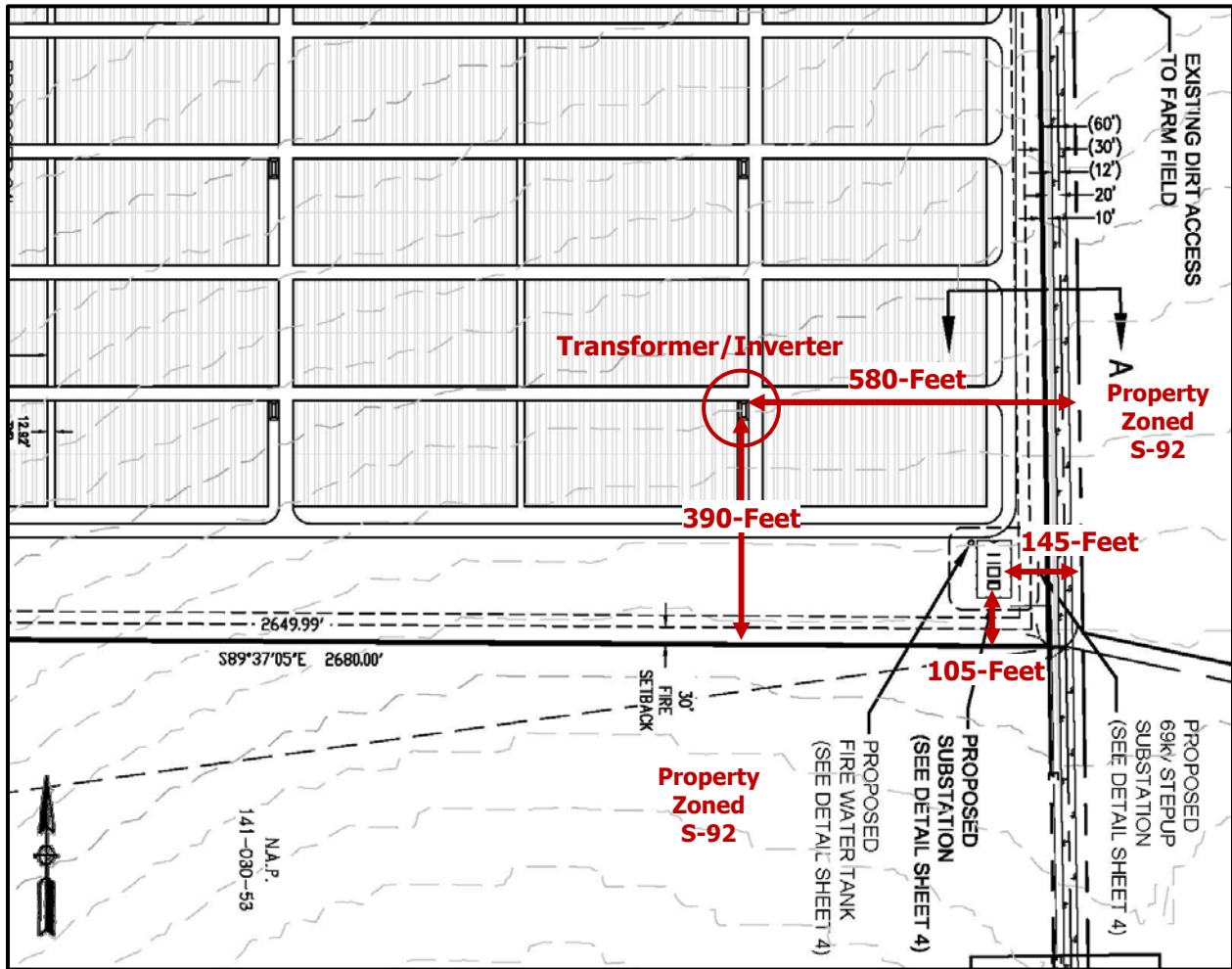


Figure 2-E: Property Line Orientation (Tracker Array)



The Substation has the highest noise level and is closest to the property lines. As can be seen in both Figures 2-D and 2-E, the worst case property line noise levels will occur at the southern property line if due to the proximity of the Project Substation. To determine the cumulative noise levels at the property line, the noise levels of 58 dBA from the transformer, 65 dBA from the inverter and 71 dBA for the larger transformer at the Substation were combined and propagated out to the nearest property line (southern) without any shielding from the proposed buildings. The results of the propagated noise levels for both the fixed and tracker array configurations are provided in Tables 2-3 and 2-4 below.

Table 2-3: Substation Property Line Noise Levels (Fixed Array)

Source	Noise Level @ 5-Feet (dBA) ¹	Distance to Nearest Property Line (Feet)	Noise Reduction due to distance (dBA)	Resultant Noise Level @ Property Line (dBA)
Transformer	58.0	465	-39.4	18.6
Inverter	65.0	465	-39.4	25.6
Substation	71.0	105	-26.4	44.6
Cumulative Noise Level @ Property Line (dBA)				44.6
¹ Noise data provided as an attachment to this report				

Table 2-4: Substation Property Line Noise Levels (Tracker Array)

Source	Noise Level @ 5-Feet (dBA) ¹	Distance to Nearest Property Line (Feet)	Noise Reduction due to distance (dBA)	Resultant Noise Level @ Property Line (dBA)
Transformer	58.0	390	-37.8	20.2
Inverter	65.0	390	-37.8	27.2
Substation	71.0	105	-26.4	44.6
Cumulative Noise Level @ Property Line (dBA)				44.6
¹ Noise data provided as an attachment to this report				

The combined noise levels at the southern property line were projected to be 44.6 dBA Leq and no impacts are anticipated from the Substation located in the southeast corner of the Project site. Therefore at a distance of 105 feet or more from the Substation in combination with the pad mounted transformer/inverters will comply with the most restrictive property line standards without shielding and no future analysis is needed. The transformers/inverters will be housed inside a concrete or steel building which will further reduce the noise levels. Additionally, all remaining small-scale transformers/inverters are located 280 feet or more from the Substation and will not cumulatively raise the noise levels at the nearest property line due to distance.

2.2.2 Corona Affect Noise Levels

The Corona Affect (Corona) is a phenomenon associated with the electrical ionization of the air that occurs near the surface of the energized conductor and suspension hardware due to very high electric field strength. This is audible power line noise that is generated from electric corona discharge, which is usually experienced as a random crackling or hissing sound. The amount of corona produced by a transmission line is a function of the voltage of the line, the diameter of the conductors, the locations of the conductors in relation to each other, the

elevation of the line above sea level, the condition of the conductors and hardware, and the local weather conditions.

Corona increases at higher elevations where the density of the atmosphere is less than at sea level. Audible noise will vary with elevation with the relationship of $X/300$ where X is the elevation of the transmission line above sea level measured in meters (EPRI 2005). Audible noise at 600 meters (~2,000 feet) in elevation will be twice the audible noise at 300 meters, all other things being equal. Typically for transmission lines of 138 kV and less, the maximum corona noise during wet weather conditions is usually less than 40 dBA at the edge of the ROW (*Source: Miguel-Mission 230 kV #2 Project, Aspen Environmental Group, 2004*). Corona typically becomes a design concern for transmission lines at 345 kV and above and is less noticeable from lines like those proposed for the Project that are operated at lower voltages.

The electric field gradient is greatest at the surface of the conductor. Large-diameter conductors have lower electric field gradients at the conductor surface and, hence, lower corona than smaller conductors. The conductors chosen for the Gen-Tie Lines were selected to have larger diameters and thus a reduced potential to create audible noise. Irregularities, such as nicks and scrapes on the conductor surface, concentrate the electric field at these locations and increase the electric field gradient and thus the resulting corona. Similarly, dust or insects on the conductor surface can cause irregularities and are a source for corona along with moisture from fog or raindrops. Corona noise is primarily audible during wet weather conditions such as fog and rain. Heavy rain will typically generate a noise level from the falling rain drops hitting the ground that will be greater than the noise generated by corona and thus mask the audible noise from the transmission line.

Corona produced by a transmission line can be reduced by changing the design of the transmission line and through the selection of the conductors and hardware used for the construction of the line. For instance the use of conductor hangers that have rounded rather than sharp edges and no protruding sharp edges will help reduce corona.

To determine the corona of the proposed Gen-Tie transmissions line, noise measurements were taken along an existing 69 kV transmission lines in the Borrego Springs area. The short-term measurements were conducted by Ldn Consulting December 4, 2009. The noise measurements were conducted along an SDGE easement south of Borrego Springs as depicted previously in Figure 1-E. Due to ambient noise sources consisting of airplanes, automobiles and birds only one-minute measurements could be taken without the results being affected by factors other than the existing 69 kV transmission lines. During the noise measurements, the crackling or hissing of the transmission lines was slightly audible and the weather conditions were dry and calm. The results of those short-term measurements are provided in Table 2-5 below.

Table 2-5: Measured Corona Noise Levels along 69 kV Lines

Location	Time	One Hour Noise Levels (dBA)					
		Leq	Lmin	Lmax	L10	L50	L90
69 kV Transmission Lines – Borrego Springs	9:35–9:36 a.m.	17.6	16.7	22.7	18.7	17.0	16.8
69 kV Transmission Lines – Borrego Springs	9:37–9:38 a.m.	18.3	17.4	27.2	19.3	18.1	17.7
Source: Ldn Consulting, Inc. December 4, 2009							

As can be seen in Table 2-5, during the dry conditions the noise levels from the Corona were very low, below 20 dBA. Typically during moist or wet conditions the Corona noise can double. This would result in a noise level of 35-37 dBA which is consistent with previous studies and modeling efforts conducted by the Electric Power Research Institute (EPRI) and CH2M Hill for the Cross Valley Transmission Line Project conducted for Southern California Edison 2008.

2.3 Conclusions

Based on the empirical data, the manufactures specifications and the distances to the property lines the unshielded cumulative noise levels from the proposed transformers/inverters and the proposed Substation were found to be below the most restrictive nighttime property line standard of 45 dBA at the S-92 zoning. No impacts are anticipated and no mitigation is required.

The measured Corona Affect noise levels were found to be below the County of San Diego’s most restrictive nighttime standard of 45 dBA. This was also consistent with previously measured and modeled noise levels on transmission line projects throughout California. No impacts from the Corona Affect are anticipated from the new transmission lines associated with the Project.

3.0 CONSTRUCTION ACTIVITIES

3.1 Guidelines for the Determination of Significance

Construction Noise: Noise generated by construction activities related to the Project will be considered a significant impact if the noise levels exceed the standards listed in San Diego County Code Section 36.410, Construction Equipment.

Section 36.410 states:

Except for emergency work,

- a) It shall be unlawful for any person to operate construction equipment between the hours of 7 p.m. of any day and 7 a.m. of the following day.
- b) It shall also be unlawful for any person to operate construction equipment on Sundays, and days appointed by the President, Governor, or the Board of Supervisors for a public fast, Thanksgiving, or holiday, but a person may operate construction equipment on the above-specified days between the hours of 10 a.m. and 5 p.m. at his residence or for the purpose of constructing a residence for himself, provided that the average sound level does not exceed 75 decibels during the period of operation and that the operation of construction equipment is not carried out for profit or livelihood.
- c) It shall also be unlawful to operate any construction equipment so as to cause at or beyond the property line of any property upon which a legal dwelling unit is located an average sound level greater than 75 decibels between the hours of 7 a.m. and 7 p.m.

For temporary activities, the County considers the 75 decibel (A) average to be based on a period of eight hours.

3.2 Potential Construction Noise Impacts

Construction noise represents a short-term impact on the ambient noise levels. Noise generated by construction equipment includes haul trucks, water trucks, graders, dozers, loaders and scrapers can reach relatively high levels. Grading activities typically represent one of the highest potential sources for noise impacts and little or no grading will be necessary for this project. The most effective method of controlling construction noise is through local control of construction hours and by limiting the hours of construction to normal weekday working hours.

The U.S. Environmental Protection Agency (U.S. EPA) has compiled data regarding the noise generating characteristics of specific types of construction equipment. Noise levels generated by

heavy construction equipment at a distance of 50 feet can range from 60 dBA for a small tractor up to 100 dBA for rock breakers. However, these noise levels diminish rapidly with distance from the construction site at a rate of approximately 6 dBA per doubling of distance. For example, a noise level of 87 dBA measured at 50 feet from the noise source would be reduced to 81 dBA at 100 feet from the source and be further reduced to 75 dBA at 200 feet from the source.

Using a point-source noise prediction model, calculations of the expected construction noise impacts were completed. The essential model input data for these performance equations include the source levels of each type of equipment, relative source to receiver horizontal and vertical separations, the amount of time the equipment is operating in a given day, also referred to as the duty-cycle and any transmission loss from topography or barriers. To determine the worst-case noise levels for the grading operations no topographic attenuation, duty-cycle reductions or barrier reductions were utilized.

According to the project applicant, the project site will be grubbed to remove vegetation and compacted in one phase followed by the installation of the PV panels in one or two phases. The project construction period for the 26 MW first phase is expected to be 4-6 months and includes all site preparation, installation of the PV panels and all utilities (i.e., Gen-Tie lines). If a second phase is constructed and if the fixed-tilt configuration is used, the construction timeframe for the second phase would be shorter because of its smaller size and because all site infrastructure will be in place. The grading and subsequent installation of the PV panels is discussed separately below.

The clearing operation will utilize a total of up to three dozers, five graders, four loaders/backhoes and four water trucks. The noise levels utilized in this analysis based upon the anticipated list of equipment are shown in Table 3-1. Most of the construction activities will consist of clearing and grubbing the site for the preparation of the PV panels. The equipment is anticipated to be spread out over the entire site with some equipment potentially operating at or near the property line while the rest of the equipment may be located over 1,000 feet from the same property line. This would result in an acoustical center for the grading operation at approximately 500 feet from the nearest property line.

As can be seen in Table 3-1, if all the equipment was operating in the same location, which is not physically possible, at a distance as close as 165 feet from the nearest property line the point source noise attenuation from construction activities is -10.4 dBA. This would result in an anticipated worst case eight-hour average combined noise level of 74.9 dBA at the property line. Given this and the spatial separation of the equipment, the noise levels will comply with the County of San Diego's 75 dBA standard at all Project property lines.

Table 3-1: Construction Grading Noise Levels

Construction Equipment	Quantity	Duty Cycle (Hours/Day)	Source Level @ 50-Feet (dBA)	Cumulative Noise Level @ 50-Feet (dBA Leq-8h)
Grader	5	8	74	81.0
Water Truck	4	8	70	76.0
Dozer	3	8	75	79.8
Loader	4	8	73	79.0
Cumulative Levels @ 50 Feet (dBA)				85.3
Distance To Property Line				165
Noise Reduction Due To Distance				-10.4
NEAREST PROPERTY LINE NOISE LEVEL				74.9

The installation of the PV panels will utilize a total of two small pile drivers to install the panel stands, two mobile cranes to move the PV panel in position and two pneumatic tools to secure the panels to the stands. The noise levels utilized in this analysis based upon the anticipated list of equipment are shown in Table 3-2. Based upon normal installation procedures the equipment is anticipated to be spread out over the entire site with pile driving occurring first and then the installation of the PV panels with a crane and pneumatic tool. Some equipment may be operating at a distance of 70-120 feet from the property line while the rest of the equipment may be located over 500 feet from the other equipment and same property line. This would result in an acoustical center from the installation operations of at least 300 feet to the nearest property line around the perimeter of the site. The distance to the property lines would increase as the interior panels are installed and the noise levels would decrease due to distance.

Table 3-2: PV Panel Installation Noise Levels

Construction Equipment	Quantity	Duty Cycle (Hours/Day)	Source Level @ 50-Feet (dBA)	Cumulative Noise Level @ 50-Feet (dBA Leq-8h)
Pneumatic Tool	2	8	82	85.0
Mobile Crane	2	8	78	81.0
Pile Driver	2	8	84	87.0
Cumulative Levels @ 50 Feet (dBA)				89.8
Distance To Property Line				275
Noise Reduction Due To Distance				-14.8
NEAREST PROPERTY LINE NOISE LEVEL				74.9

As can be seen in Table 3-2, if all the equipment was operating in the same location, which is not physically possible, at a distance as close as 275 feet from the nearest property line the point source noise attenuation from construction activities is -14.8 dBA. This would result in an anticipated worst case eight-hour average combined noise level of 74.9 dBA at the property line. Given this and the spatial separation of the equipment, the noise levels will comply with the County of San Diego's 75 dBA standard at all Project property lines.

Additionally, the County Noise Ordinance Section 36.409 (c), states that the 75 dBA threshold pertains to a property having an occupied structure. "Except for emergency work, it shall be unlawful for any person to operate construction equipment or cause construction equipment to be operated, that exceeds an average sound level of 75 decibels for an eight-hour period, between 7 a.m. and 7 p.m., when measured at the boundary line of the property where the noise source is located or on any occupied property where the noise is being received." Some of the properties adjacent the Project site do not have a legal dwelling unit are therefore are exempt from Section 36.409.

3.2 Construction Conclusions

At a distance as close as 165 feet the point source noise attenuation from the grading activities and the nearest property line is -10.4 dBA. This would result in an anticipated worst case eight-hour average combined noise level of 74.9 dBA at the property line. During the installation of the PV panels at a distance of 275 feet would result in a noise level of 74.9 dBA. The installation equipment is anticipated to average more than 300 feet from the nearest property line. Given this and the spatial separation of the equipment over the large site area, the noise levels of the grading and PV panel installation are anticipated to comply with the County of San Diego's 75 dBA standard at all Project property lines.

Additionally, the County Noise Ordinance Section 36.409 (c), states that the 75 dBA threshold pertains to a property having a legal dwelling unit. Some of the properties adjacent the Project site do not have a legal dwelling unit are therefore are exempt from Section 36.409. Therefore no impacts are anticipated from the grading or PV panel installation operations at any property line and no mitigation or additional analysis is warranted.

4.0 SUMMARY OF PROJECT IMPACTS, MITIGATION & CONCLUSIONS

- Operational Noise Analysis

Based on the empirical data, the manufactures specifications and the distances to the property lines the unshielded cumulative noise levels from the proposed transformers/inverters and the proposed Substation were found to be below the most restrictive nighttime property line standard of 45 dBA. No impacts are anticipated and no mitigation is required.

The measured Corona Affect noise levels were found to be below the County of San Diego's most restrictive nighttime standard of 45 dBA. This was also consistent with previously measured and modeled noise levels on transmission line projects throughout California. No impacts from the Corona Affect are anticipated from the new transmission line associated with the proposed Project and no mitigation is required.

- Construction Noise Analysis

At a distance as close as 165 feet the point source noise attenuation from the grading activities and the nearest property line is -10.4 dBA. This would result in an anticipated worst case eight-hour average combined noise level of 74.9 dBA at the property line. During the installation of the PV panels at a distance of 275 feet would result in a noise level of 74.9 dBA. The installation equipment is anticipated to average more than 300 feet from the nearest property line. Given this and the spatial separation of the equipment over the large site area, the noise levels of the grading and PV panel installation are anticipated to comply with the County of San Diego's 75 dBA standard at all Project property lines.

Additionally, the County Noise Ordinance Section 36.409 (c), states that the 75 dBA threshold pertains to a property having a legal dwelling unit. Some of the properties adjacent the Project site do not have a legal dwelling unit are therefore are exempt from Section 36.409. Therefore no impacts are anticipated from the grading or PV panel installation operations at any property line and no mitigation or additional analysis in warranted.

5.0 CERTIFICATIONS

The contents of this report represent an accurate depiction of the existing and future acoustical environment and impacts within the proposed Borrego 1 Solar Project development. The report was prepared by Jeremy Loudon; a County approved CEQA Consultant for Acoustics.

DRAFT

Jeremy Loudon
Principal
Ldn Consulting, Inc.

Date January 14, 2011

ATTACHMENT A

MANUFACTURES SPECIFICATIONS AND NOISE DATA
(Transformers and Inverters)

NEMA Standards Publication No. TR 1-1993 (R2000)

Transformers, Regulators and Reactors

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FOREWORD

The standards appearing in this publication have been developed by the Transformer Section and have been approved for publication by the National Electrical Manufacturers Association. They are used by the electrical industry to promote production economies and to assist users in the proper selection of transformers.

The Transformer Section is working actively with the American National Standards Committee, C57, on Transformers, Regulators and Reactors, in the development, correlation and maintenance of national standards for transformers. This Committee operates under the procedures of the American National Standards Institute (ANSI).

It is the policy of the NEMA Transformer Section to remove material from the NEMA Standards Publication as it is adopted and published in the American National Standard C57 series. The NEMA Standards Publication for Transformers, Regulators and Reactors references these and other American National Standards applying to transformers, and is intended to supplement, without duplication, the American National Standards.

The NEMA Standards Publication for Transformers, Regulators and Reactors contains provision for the following:

- a. American National Standards adopted by reference and applicable exceptions approved by NEMA, if any.
- b. NEMA Official Standards Proposals. These are official drafts of proposed standards developed within NEMA or in cooperation with other interested organizations, for consideration by ANSI. They have a maximum life of five years, during which time they may be approved as American National Standards or adopted as NEMA Standards, or rescinded.
- c. Manufacturing Standards. These are NEMA Standards which are primarily of interest to the manufacturers of transformers and which are not yet included in an American National Standard.
- d. Standards Which Are Controversial. These are NEMA Standards, on which there is a difference of opinion within Committee C57. The NEMA version will be included in the NEMA Standards Publication until such time as the differences between ANSI and NEMA are resolved.

NEMA Standards Publications are subject to periodic review and take into consideration user input. They are being revised constantly to meet changing economic conditions and technical progress. Users should secure latest editions. Proposed or recommended revisions should be submitted to:

Vice President, Engineering Department
National Electrical Manufacturers Association
2101 L Street, N.W.
Washington, D.C. 20037-1526

SCOPE

This publication provides a list of all ANSI C57 Standards that have been approved by NEMA. In addition it includes certain NEMA Standard test methods, test codes, properties, etc., of liquid-immersed transformers, regulators, and reactors that are not American National Standards.

PART 0 GENERAL

The following American National Standards have been approved as NEMA Standards and should be inserted in this Part 0:

ANSI/IEEE C57.12.00-1988	<i>General Requirements for Liquid-Immersed Distribution, Power and Regulating Transformers</i>
ANSI/IEEE C57.12.01-1989	<i>General Requirements for Dry Type Power and Distribution Transformers</i>
ANSI C57.12.10-1988	<i>Requirements for Transformers 230,000 volts and below, 833/958-8333/110,417 kVA single-phase 750/862-60,000/80,000/100,000 kVA three phase, including supplements</i>
ANSI C57.12.70-1993	<i>Terminal Markings and Connections for Distribution and Power Transformers</i>
ANSI/IEEE C57.12.90-1993	<i>Test Code for Liquid-immersed Distribution, Power & Regulating Transformers and Guide for Short-Circuit Testing of Distribution & Power Transformers</i>
ANSI/IEEE C57.19.00-1992	<i>General Requirements and Test Procedure for Outdoor Apparatus Bushings</i>
ANSI/IEEE C57.19.01-1992	<i>Standard Performance Characteristics & Dimensions for Outdoor Apparatus Bushings</i>
ANSI/IEEE C57.92-1992	<i>Guide for Loading Mineral-oil-immersed Power Transformers up to and including 100 MVA with 55C or 65C Average Winding Rise</i>

The NEMA Standards TR 1-0.01 through TR 1-0.09 on the following pages (see Part 0 Pages 1-9) also apply generally to transformers.

0.01 PREFERRED VOLTAGE RATINGS

Preferred system voltages and corresponding transformer voltage ratings are given in the American National Standard for Electric Power Systems and Equipment--Voltage Ratings (60 Hz), C84.1-1989. It is recommended that these ratings be used as a guide in the purchase and operation of transformers.

0.02 FORCED-AIR (FA) AND FORCED-OIL (FOA) RATINGS

Under the conditions of par. 5.11 of American National Standard ANSI/IEEE C57.12.00-1988, the relationship between self-cooled ratings and forced-air-cooled or forced-oil-cooled ratings shall be in accordance with Table 0-1.

**Table 0-1
FORCED-AIR AND FORCED-OIL RATINGS RELATIONSHIPS**

Class	Self-cooled Ratings* (kVA)		Percent of Self-Cooled Ratings With Auxiliary Cooling	
	Single Phase	Three Phase	First Stage	Second Stage
	OA/FA	501-2499	501-2499	115
OA/FA	2500-9999	2500-11999	125	--
OA/FA	10000 and above	12000 and above	133-1/3	--
OA/FA/FA	10000 and above	12000 and above	133-1/3	166-2/3
OA/FA/FOA	10000 and above	12000 and above	133-1/3	166-2/3
OA/FOA/FOA	10000 and above	12000 and above	133-1/3	166-2/3

*In the case of multi-winding transformers or autotransformers, the ratings given are the equivalent two-winding ratings.

PERFORMANCE

0.03 RADIO INFLUENCE VOLTAGE LEVELS

The following values apply to liquid-filled transformers. They do not apply to load tap changing during switching or to operation of auxiliary relays and control switches.

0.03.1 Distribution Transformers

Radio influence voltage levels for distribution transformers, for systems rated 69 kV and less, shall not exceed 100 microvolts when measured in accordance with Section 7.01. The test voltage shall be the line-to-neutral voltage corresponding to 110 percent excitation of the transformer. This will be the coil voltage for wye connections and 1/3 times the coil voltage for delta connections.

0.04 POWER FACTOR OF INSULATION OF OIL-IMMERSED TRANSFORMERS

While the real significance which can be attached to the power factor of oil-immersed transformers is still a matter of opinion, experience has shown that power factor is helpful in assessing the probable conditions of the insulation when good judgement is used.

The proper interpretation of power factor of oil-immersed transformers is being given careful attention by manufacturers in connection with the problems of (1) selecting insulating materials, (2) sealing, and (3) processing the transformers. However, it is the comparative values which are guides for the successful solution for these problems rather than an absolute value of power factor.

The generally accepted factory tests for proving the insulation level are the prescribed low-frequency tests and impulse tests given in the American National Standard C57.12.90-1993.

When required, a factory power-factor test can be made, and this measurement will be of value for comparison with field power-factor measurements to assess the

probable condition of the insulation. It is not feasible to establish standard power-factor values for oil-immersed transformers because:

- a. Experience has definitely proved that little or no relation exists between power factor and the ability of the transformer to withstand the prescribed dielectric tests.
- b. Experience has definitely proved that the variation in power factor with temperature is substantial and erratic so that no single correction curve will fit all cases.

When a factory power-factor measurement of a transformer is required, the measurement should be made with the insulation at room temperature, preferably at or close to 20°C.

0.05 AUDIBLE SOUND LEVELS

Transformers shall be so designed that the average sound level will not exceed the values given in Tables 0-2 through 0-4 when measured at the factory in accordance with the conditions outlined in ANSI/IEEE C57.12.90-1993.

The guaranteed sound levels should continue to be per Tables 0-2 through 0-4 until such time as enough data on measured noise power levels becomes available.

Sound pressure levels are established and published in this document. Sound power may be calculated from sound pressure, using the method described in C57.12.90-1993.

Rectifier, railway, furnace, grounding, mobile and mobile unit substation transformers are not covered by the tables. The tables do not apply during the time that power switches are operating in load-tap-changing transformers and in transformers with integral power switches.

Table 0-3
AUDIBLE SOUND LEVELS FOR LIQUID-IMMERSED
DISTRIBUTION TRANSFORMERS AND NETWORK TRANSFORMERS

Equivalent Two-winding kVA	Average Sound Level, Decibels
0-50	48
51-100	51
101-300	55
301-500	56
750	57
Small Transformer 1000	58
1500	60
2000	61
2500	62

Table 0-4
AUDIBLE SOUND LEVELS FOR DRY-TYPE TRANSFORMERS 15000-VOLT
NOMINAL SYSTEM VOLTAGE AND BELOW

Equivalent Two-Winding kVA	Average Sound Level, Decibels		Equivalent Two-winding kVA	Average Sound Level, Decibels
	Self-cooled Ventilated*	Self-cooled Sealed*		Ventilated Forced Air Cooled **,†
0-50	50	50	...	...
51-150	55	55	...	...
151-300	58	57	3-300	67
301-500	60	59	301-500	67
501-700	62	61	501-833	67
701-1000	64	63	834-1167	67
1001-1500	65	64	1168-1667	68
1501-2000	66	65	1668-2000	69
Large Transformer 2001-3000	68	66	2001-3333	71
3001-4000	70	68	3334-5000	73
4001-5000	71	69	5001-6667	74
5001-6000	72	70	6668-8333	75
6001-7500	73	71	8334-10000	76

* Class AA rating

**Does not apply to sealed-type transformers

†Class FA and AFA ratings

Part 1 POWER TRANSFORMERS

The American National Standard C57.12.10-1988 has been approved as a NEMA Standard for power transformers and should be inserted in this Part 1.

The ANSI/IEEE Standard C57.92-1992, has been approved by NEMA and should be inserted in this Part 1.

The following other parts of this NEMA Publication No. TR 1 shall also apply:

- a. Part 1 General
- b. Part 6 Terminology
- c. Part 7 Test Code
- d. Part 12 Underground-Type Three-Phase Distribution Transformer

Unparalleled Performance

Satcon enables you to closely match array capacities to achieve maximum energy throughput.



Edge™ MPPT

Features a proprietary maximum power point tracking (MPPT) system

Provides rapid and accurate control

Improves performance by up to 20%, even in challenging climate conditions

Boosts overall PV plant kilowatt yield

Provides a wide range of operation across all photovoltaic cell technologies, including thin film, monocrystalline, and polycrystalline PV panels

Power Efficiency

Full array nameplate power rating maintained throughout the entire MPPT DC voltage range

Superior dynamic performance in cloudy conditions

Printed Circuit Board Durability

Wide thermal operating range: -40° C (-40° F) to 85° C (185° F)

Conformal coated to withstand extreme humidity and air-pollution levels

Proven Reliability

Rugged and reliable, PowerGate Plus PV inverters are engineered from the ground up to meet the demands of large-scale installations.

Low Maintenance

Modular components make service efficient

Dual cooling fans

Safety

Seismic Zone 4 compliant

Built-in DC and AC disconnect switches

Integrated DC two-pole disconnect switch isolates the inverter (with the exception of the GFDI circuit) from the photovoltaic power system to allow inspection and maintenance

Protective cover over exposed power connections

PowerGate® Plus 1 MW Commercial Solar PV Inverter



PowerGate Plus 1 MW Specifications		UL/CSA	CE
Input Parameters			
Maximum Array Input Voltage	900V DC (CE)	•	•
Input Voltage Range (MPPT; Full Power)	420–850V DC	•	•
Maximum Input Current	2,397A DC	•	•
Output Parameters			
Nominal Output Voltage to Transformer	265V AC	•	•
Output Frequency Range	59.5–60.5 Hz	•	
	49.5–50.5 Hz		•
AC Voltage Range Set Points	-12%/+10%	•	•
Nominal Output Frequency	60 Hz	•	
	50 Hz		•
Number of Phases	3	•	•
Maximum Output Current per Phase	2,178A	•	•
Maximum Overcurrent Protection per Phase	2,614A	•	•
CEC-Weighted Efficiency	97%	•	•
Maximum Continuous Output Power	1000 kW (1000 kVA)	•	•
Power Factor at Full Load	>0.99	•	•
Harmonic Distortion	<3% THD	•	•
Temperature			
Operating Ambient Temperature Range (Full Power)	-20° C to +50° C	•	•
Storage Temperature Range	-30° C to +70° C	•	•
Cooling	Forced Air	•	•
Noise			
Noise Level	<65 dB(A)	•	•

• Standard • Optional



PowerGate Plus 1 MW

UL/CSA 265V AC Output

CE 265V AC Output

External transformer required.

Streamlined Design

With all components encased in a single, space-saving enclosure, PowerGate Plus PV inverters are easy to install, operate, and maintain.

Single Cabinet with Small Footprint

Convenient access to all components

Large in-floor cable glands make access to DC and AC cables easy

Rugged Construction

Engineered for outdoor environments

Output Transformer (Optional)

Provides galvanic isolation

Uses medium voltage output to accommodate long-distance power feeds to designated loads or substations

PowerGate Plus 1 MW Specifications		UL/CSA	CE
Combiner			
Number of Inputs and Fuse Rating	40 (160A DC) (Opt.)	○	○
	60 (100A DC) (Opt.)	○	○
Transformer			
External Transformer		○	○
Inverter and Integrated External Transformer Cabinets			
Enclosure Rating (Outdoor)	NEMA 3R, IP44	●	●
Enclosure Finish (16-Gauge, Powder-Coated Steel)	RAL-7032	●	●
Base and Door Finish (14-Gauge, Powder-Coated Steel)	RAL-7032	●	●
Cabinet Dimensions (Height x Width x Depth)	Inverter	107" x 148" x 84" (272 cm x 376 cm x 213 cm)	
Cabinet Weight	Inverter	12,000 lbs.	5,443 kg
Testing and Certification			
UL1741, CSA 107.1-01, IEEE 1547, IEEE C62.41.2		●	
CE Certification			●
Zone 4 Seismic Rating		●	●
Warranty			
Five Years		●	●
Extended Warranty (10, 15, or 20 years) (Optional)		○	○
Extended Service Agreement (Optional)		○	○
Intelligent Monitoring			
Satcon PV View® Plus (Optional)		○	○
Satcon PV Zone (Optional)		○	○
Third-Party Compatibility		○	○

- Standard
 - Optional
- Note: Specifications are subject to change.

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Data Request SITING BOARD_1_45:

Refer to the SAR, Appendix D, page 10. Provide the basis for the assumption that the sound typically produced by a large transformer at the Substation has a noise level of 71 dBA at 5 feet or a total sound power level of 86 dBA.

Response: At the time of the noise analysis, the noise specification of a large-scale transformer was not available. AZTEC did research and used the best available data on the web from similar solar report. Please refer to the “Noise Assessment, Borrego 1 Solar Project” for noise specification of a large transformer, also shown below.

**Table 0-4
 AUDIBLE SOUND LEVELS FOR DRY-TYPE TRANSFORMERS 15000-VOLT
 NOMINAL SYSTEM VOLTAGE AND BELOW**

Equivalent Two-Winding kVA	Average Sound Level, Decibels		Equivalent Two-winding kVA	Average Sound Level, Decibels
	Self-cooled Ventilated*	Self-cooled Sealed*		Ventilated Forced Air Cooled **,†
0-50	50	50	...	...
51-150	55	55	...	...
151-300	58	57	3-300	67
301-500	60	59	301-500	67
501-700	62	61	501-833	67
701-1000	64	63	834-1167	67
1001-1500	65	64	1168-1667	68
1501-2000	66	65	1668-2000	69
2001-3000	68	66	2001-3333	71
3001-4000	70	68	3334-5000	73
4001-5000	71	69	5001-6667	74
5001-6000	72	70	6668-8333	75
6001-7500	73	71	8334-10000	76

* Class AA rating
 **Does not apply to sealed-type transformers
 †Class FA and AFA ratings

See attached comparable solar noise report referenced in 1_44: “Noise Assessment Borrego 1 Solar Project” BSLLC_R_SITING BOARD_1_44_Attachment.

Witness: David Shu

Data Request SITING BOARD_1_46:

Refer to the SAR, Appendix D, Table 3, page 11. Confirm that all relevant sound receptors including residences, schools, churches, cemeteries within 500 feet of any sound generating equipment is captured in Table 3. If not, provide an update to the table to show all relevant noise receptors within 500 feet of noise generating equipment during both construction and operation of the facility.

Response: Bluebird selected and confirmed all representative sensitive noise receptors outside of the project boundary. Bluebird directed that noise receptors inside the project boundary were not to be selected because those residences will be part of the project.

Witness: David Shu

**COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD
ON ELECTRIC GENERATION AND TRANSMISSION SITING**

**IN THE MATTER OF THE APPLICATION OF)
BLUEBIRD SOLAR LLC FOR A CONSTRUCTION)
CERTIFICATE TO CONSTRUCT A MERCHANT) Case No. 2021-00141
ELECTRIC GENERATING FACILITY)**

CERTIFICATION

This is to certify that I have supervised the preparation of Bluebird Solar LLC's responses to the Siting Board Staff's First Request for Information and that the responses are true and accurate to the best of my knowledge, information, and belief after reasonable inquiry.

Date: April 8, 2022

Michael Stanton

Michael Stanton
Senior Vice President of Development,
BayWa r.e. Solar Projects