

**OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

**APN NO. 069-00-00-023.00
FLEMING COUNTY, KENTUCKY**

THIS OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made and entered into as of this 27 day of April, 2020 (such date being the date this Agreement is last signed and executed, the "Effective Date"), by and between **James C. Robinson and wife, Mary M. Robinson** ("Seller"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Seller is the owner of certain real property in Fleming County, in the state of Kentucky, containing approximately 53.27 acres of land, commonly identified as APN 069-00-00-023.00 (the "Land"), as more particularly described on Exhibit A attached hereto and incorporated herein.


B. As used in this Agreement, the term the "Property" shall mean, collectively: (a) the Land, together with all of Seller's right, title and interest in all rights, easements, rights-of-way and other interests appurtenant thereto including, but not limited to, any streets or other public ways adjacent to such Land and any development rights, water rights or mineral rights owned by, or leased to, Seller; (b) all improvements located on such Land, if any (all such improvements being collectively referred to herein as the "Improvements"); and (c) all trademarks, trade names, permits, approvals, and entitlements and other intangible property used in connection with the foregoing, including, without limitation, all of Seller's right, title and interest in any and all warranties and guaranties relating to the Property (collectively, the "Intangible Personal Property").

C. Seller desires to grant to Purchaser an option to purchase the Property on the terms set forth herein. Seller acknowledges that upon acquisition of the Property, Purchaser shall be free to use and dispose of such Property in any manner Purchaser deems appropriate and that Purchaser may sell such Property for any price Purchaser deems appropriate to any subsequent buyer.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Grant of Option to Purchase.

(a) Option to Purchase. Seller hereby grants to Purchaser an exclusive and irrevocable option (the "Option") to purchase from Seller and, if Purchaser exercises the Option, agrees to sell to Purchaser, approximately 33.3 acres of the Property, as more particularly depicted on Exhibit A-1 attached hereto and incorporated herein, subject to and upon the terms, covenants and conditions set forth herein.



anything herein to the contrary, Seller and Purchaser agree to add a legal description of the Land to be purchased as soon as it has been prepared by a licensed surveyor. Seller and Purchaser acknowledge that the final acreage of the Land may be more or less than 33.3 acres upon receipt of the survey.

(b) Subdivision of Land. If Purchaser exercises the Option, Purchaser shall, at Purchaser's election, purchase approximately 33.3 acres of land which constitutes a portion of the Land. Purchaser shall, [REDACTED] apply for and seek all required approvals and satisfy all regulatory conditions and requirements to legally subdivide the Land to create the separate parcel for the Property to be purchased by Purchaser. Purchaser shall be responsible for any and all expenses of surveys, engineering and professional services required in creating the separate legal parcel. At Purchaser's request, Seller shall fully support and cooperate with Purchaser in Purchaser's efforts to obtain approval of the subdivision request, including, without limitation, joining with Purchaser in the signing of any application, filing, request, waiver, variance, subdivision map or parcel map, land use permit and/or approvals, in each case as Purchaser may deem necessary or desirable to obtain subdivision approval, executing any special warranty deeds to create the separate parcels, satisfying (at no cost to Seller) any conditions of approval imposed by the approving jurisdiction(s) for such subdivision. The intended parcel configuration and boundary of the Land to be acquired by Purchaser is attached hereto on Exhibit A-1, but such configuration is subject to final subdivision approval. In the event the configuration or boundary is required to be changed by governing authorities in connection with the subdivision, the Land configuration and boundary of the new separate legal parcel of the Land to be purchased shall be determined by Purchaser with the consent of Seller not to be unreasonably withheld, conditioned or delayed provided the remaining portion of the Land that will not be acquired by Purchaser is of a reasonable useful configuration (for example, not irregularly shaped or landlocked).

The Closing of the Property is expressly conditioned upon the legal subdivision of the Land, including the approval and the filing of a final subdivision map or parcel map as may be required by the applicable jurisdiction(s). This legal parcel condition is not subject to waiver by the parties. Seller agrees, and as a closing condition of the Closing of the Property to be purchased by Purchaser, to grant to Purchaser, to the extent necessary, permanent appurtenant easements thirty feet (30') in width across the remaining Land for the benefit of the Property to be purchased by Purchaser for purposes of ingress and egress, utility lines, and other related facilities for legal access and for interconnection purposes to a substation or other interconnection point in the location shown on Exhibit E ("Seller's Easement").

2. Option Term.

(a) Term. The term of the Option shall commence on the Effective Date and shall expire on the date that is [REDACTED] (the "Option Term"). If Purchaser does not exercise the Option or terminate this Agreement prior to the expiration of the Option Term, Purchaser shall be deemed to have terminated this Agreement, and the parties shall both execute a writing confirming such termination.

(b) Purchaser's Right to Terminate. Notwithstanding anything in this Agreement to the contrary, Purchaser shall have the right to terminate this Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason

whatsoever. Upon such termination, the Option Consideration (defined below), to the extent actually paid by Purchaser to Seller, [REDACTED] (subject to the terms of Section 9), and neither party shall have any further rights or obligations hereunder except as otherwise specified in this Agreement. Upon any termination of this Agreement, Purchaser and Seller agree to document such termination by executing and delivering to each other a Termination Agreement in the form attached hereto as Exhibit B and incorporated herein.

3. Option Consideration.

(a) Signing Consideration. Within ten (10) business days after the Effective Date, Purchaser shall pay to Seller the amount of [REDACTED] (the "Signing Option Consideration"). The Signing Option Consideration shall be credited toward the Purchase Price at Closing if Purchaser exercises the Option and shall otherwise be non-refundable except as provided in Section 9 (or as elsewhere expressly provided in this Agreement). The parties acknowledge and agree that the Signing Option Consideration is adequate consideration paid by Purchaser to Seller for entering into this Agreement and the right and ability of Purchaser to commence its due diligence of the Property and evaluate the transaction contemplated by this Agreement.

[REDACTED]

<u>Amount of Option Consideration</u>	<u>Payment Date</u>
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[REDACTED]

(c) Account Information. All payments made by Purchaser under this Section 3 shall be made by wire transfer to the following bank account at Seller's financial institution:

[REDACTED]

[REDACTED]

Payment shall be deemed made and paid upon issuance of a wire transfer confirmation number for the transfer of such funds to Seller's account from Purchaser's financial institution.

(d) Termination for Failure to Pay. If Purchaser fails to make a payment of Option Consideration [REDACTED]

[REDACTED] If this Agreement is so deemed terminated, or is otherwise terminated as provided herein, Purchaser shall have no further obligation to pay any Option Consideration that has a payment date that is on or following the date of such termination.

4. Exercise of Option. The Option may be exercised upon Purchaser's written notice to Seller of its election to exercise the Option ("Option Notice") within the Option Term specified in Section 2. Such Option Notice shall be deemed timely if it is transmitted by facsimile, delivered or mailed, certified mail, return receipt requested, or via a nationally recognized overnight delivery service within the time period specified in Section 2. Purchaser's Option Notice shall specify that Purchaser is exercising the Option and include the boundary of the 33.3 acres of the Property (subject to compliance with all applicable subdivision requirements) and the Purchase Price (defined below) for the Property. From and after Purchaser's exercise of the Option, the term "Land" shall include only such portion of the Land that Purchaser specifies it will purchase in the Option Notice (and all defined terms which incorporate the term "Land" in their definitions, such as the defined term "Property", shall then incorporate such reduced definition of the term "Land"). In the event that Purchaser timely exercises the Option, Seller shall sell to Purchaser and Purchaser shall buy from Seller the Property, on the terms and conditions established in this Agreement.

5. Purchase Price.

(a) The "Purchase Price" for the Property shall be equal to [REDACTED] multiplied by the actual number of acres in the Land to be purchased by Purchaser as set forth in the Option Notice.

(b) The Purchase Price shall be paid at the closing of the sale of the Property to Purchaser (the "Closing") as follows:

[REDACTED]

(ii) The balance of the Purchase Price, plus or minus prorations and other adjustments hereunder, shall be paid to Seller in cash or other immediately available funds at the Closing.

6. Due Diligence and Time for Satisfaction of Conditions. Purchaser shall have the right to access the Property and to commence due diligence with respect to the Property immediately following the Effective Date, and the due diligence period ("Due Diligence Period") shall expire at 5:00 p.m. Pacific Standard Time on the last day of the Option Term. Within five (5) days after the Effective Date, Seller shall deliver to Purchaser or make available to Purchaser and its employees, representatives, counsel and consultants access to all of its books, records and files relating to the Property in Seller's possession or control, including, without limitation, all of the items set forth in Section 7 below (collectively, the "Due Diligence Items").

7. Diligence Period Conditions.

The following shall be conditions precedent to Purchaser's obligation to purchase the Property (the "Diligence Period Conditions"):

(a) Purchaser's review and approval of written documentation satisfactory to Purchaser, confirming that Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and that the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller. Seller shall deliver such written documentation to Purchaser within five (5) days after the Effective Date.

(b) Purchaser's review and approval of the Due Diligence Items, including, but not limited to, any and all tenant leases (including oil, gas or mineral rights), if any, and all amendments thereto (collectively, the "Leases"); all contracts pertaining to the use and operation of the Property, if any (collectively, the "Service Contracts"); permits and entitlements; any materials or reports concerning the physical condition of the Property; any records of the use of Hazardous Materials (defined below) on the Property; and such other documents and information reasonably requested by Purchaser, including, but not limited to, any existing Phase I and/or II Environmental Site Assessment, geotechnical studies, biological studies, cultural resource studies, wetland studies, drainage studies and/or plans, improvement plans, building plans, traffic studies, water supply assessment studies, and crop planting and harvesting schedules, if any. All Leases and Service Contracts shall be terminated by Seller [REDACTED] effective prior to the Closing.

(c) Purchaser's review and approval of the condition of title to the Property. Purchaser shall obtain a current preliminary title report or a commitment for title insurance with respect to all of the Land, issued by Old Republic National Title Insurance Company or such other title insurance company designated by Purchaser (the "Title Company"), accompanied by copies of all documents referred to in the report or commitment (collectively, the "Preliminary Report"). Seller shall deliver to Purchaser [REDACTED], within five (5) days after the Effective Date, the following:

(i) copies of all existing and proposed easements, covenants, restrictions, agreements or other documents which affect title to the Property that are actually known by Seller and are not recorded (and, within five (5) days after Purchaser's delivery to Seller of a copy of the Preliminary Report, any such documents that are actually known by Seller that may be recorded, but that are not disclosed by the Preliminary Report) (collectively, "Undisclosed Encumbrances"), including but not limited to any existing above ground or below ground irrigation

pipes, water wells, pumps, gas lines, and electrical service lines serving the Property (and if no such documents exist, a written explanation of or map showing the existence of any such items); and

(ii) the most recent survey of the Property, if available. Purchaser shall have the right, [REDACTED] to obtain a new survey of the Property and/or an update of any survey provided by Seller. Any surveys provided by Seller, together with any new or updated survey obtained by Purchaser, are collectively referred to herein as the "Survey".

Purchaser shall have until [REDACTED] to notify Seller in writing of any objections (the "Title Objections") with respect to the Preliminary Report, Undisclosed Encumbrances and the Survey based on its review thereof. Seller shall have five (5) business days after receipt of the Title Objections to notify Purchaser in writing that Seller (a) will cause, or (b) elects not to cause, any or all Title Objections disclosed therein to be removed or otherwise cured prior to Closing. Seller's failure to notify Purchaser within such five (5) business day period as to any Title Objections shall be deemed an election by Seller not to remove or otherwise cure such Title Objections. If Seller notifies or is deemed to have notified Purchaser that Seller will not remove or otherwise cure any or all of the Title Objections, Purchaser shall have until the end of the Due Diligence Period to (i) terminate this Agreement, or (ii) waive such Title Objections (failure of Purchaser to provide Seller notice of either (i) or (ii) above shall be deemed a waiver by Purchaser of such Title Objections). [REDACTED]

[REDACTED] as applicable. Purchaser may additionally, at any time prior to the Closing, notify Seller in writing (the "Gap Notice") of Purchaser's objection to any title exceptions or Survey matters not created by Purchaser or with Purchaser's prior written consent (A) raised by the Title Company or otherwise disclosed to Purchaser between the expiration of the Due Diligence Period and the Closing and (B) not disclosed by the Title Company or otherwise known to Purchaser prior to the expiration of the Due Diligence Period (the "New Title Matters"). If Purchaser sends a Gap Notice to Seller, Seller shall have five (5) business days after receipt of the Gap Notice to notify Purchaser in writing whether Seller (aa) will cause, or (bb) elects not to cause, any or all of the objections set forth in the Gap Notice to be removed or otherwise cured prior to Closing. Seller's failure to respond in writing to Purchaser's Gap Notice within such five (5) business day period shall be deemed Seller's election not to cause the removal or other cure of the objections set forth in the Gap Notice. If Seller notifies or is deemed to have notified Purchaser that it elects not to cause the removal or other cure of the objections set forth in the Gap Notice, Purchaser shall have five (5) business days after the expiration of Seller's five (5) business day period to either (1) terminate this Agreement, or (2) waive the objections set forth in Purchaser's Gap Notice and proceed to the Closing. [REDACTED]

[REDACTED] The Closing Date (as defined below) shall be extended as necessary to accommodate the time periods set forth in this Section. Within ten (10) days after receipt of a written request made from time to time by

Purchaser, Seller shall execute and deliver to Purchaser any owner's affidavit reasonably requested by any title company or attorney reviewing title to the Property.

(d) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of all aspects of the Property, including, without limitation, all of the Due Diligence Items, and the results of Purchaser's examinations, inspections, testing, and or investigations of the Property and the Due Diligence Items (collectively, "Purchaser's Due Diligence Investigations"). Purchaser's Due Diligence Investigations may include an examination for the presence or absence of Hazardous Materials (as defined below) on, under or in the Property including, without limitation, the review and approval of any Phase I or Phase II environmental report, geotechnical study, biological study, cultural resource study, wetland study, drainage study and/or plans, improvement plans, building plans, traffic study, water supply assessment study, and crop planting and harvesting schedule which Purchaser may obtain, [REDACTED], during the Due Diligence Period. In the event Purchaser wishes to conduct a Phase II environmental audit report, at [REDACTED] Seller agrees to such testing on the Property.

(e) Purchaser's review and approval, in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of reports by consultants, engineers and/or architects selected by Purchaser to inspect the Property.

(f) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of evidence satisfactory to Purchaser and its legal counsel and consultants that the Property and Purchaser's proposed development thereof complies with all applicable zoning, subdivision, land use, redevelopment, energy, environmental, building and other governmental requirements applicable to the use, maintenance and occupancy of the Property and the proposed development thereof.

(g) Written documentation satisfactory to Purchaser, confirming that all state and local real property and business taxes pertaining to the Property (including, without limitation, all corporate, sales, and withholding taxes) have been paid in full by Seller.

8. Conditions to Closing.

The following conditions are precedent to Purchaser's obligation to acquire the Property and to deliver the balance of the Purchase Price (the "Conditions Precedent"). If any Conditions Precedent are not satisfied as determined by Purchaser in Purchaser's reasonable discretion (except as otherwise provided), [REDACTED]

(a) This Agreement shall not have terminated pursuant to any other provision hereof, including, without limitation, pursuant to Sections 2 or 9.

(b) Purchaser shall have a fully executed agreement for the sale of power based on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(c) Purchaser shall have determined, in its sole and absolute discretion, that financing can be obtained to purchase the Property and develop a solar power facility thereon in an amount and on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(d) The physical condition of the Property shall be substantially the same on the day of Closing as on the Effective Date, loss by casualty excepted (subject to the provisions of Section 13 below), and free and clear of all personal property, motor homes, junk, trash, sheds and similar property; and, as of the day of the Closing, there shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after the Closing could or would materially adversely affect the value of the Property or Purchaser's ability to develop the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the re-designation or other modification of the zoning classification of the Property or any portion thereof, which after the Closing would materially adversely affect the value of the Property or the ability of Purchaser to develop the Property in the manner contemplated by Purchaser.

(e) All Leases and Service Contracts shall be terminated effective on or before the Closing, and Seller shall deliver exclusive possession of the Property to Purchaser and shall convey good and marketable fee simple title to the Property to Purchaser by good and sufficient limited warranty deed in the form of Exhibit C attached hereto (the "Deed") free and clear of all liens and encumbrances and subject to no exceptions other than the following:

(i) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent,

(ii) Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Purchaser in writing prior to or as of the Closing, and

(iii) All exceptions to title contained or disclosed in the Preliminary Report and Survey other than Title Objections identified (including objections set forth in any Gap Notice) and not thereafter waived by Purchaser.

(f) The Title Company shall be irrevocably and unconditionally committed to issue to Purchaser, an ALTA extended coverage Owner's policy of title insurance covering the Property, in the full amount of the Purchase Price, subject only to those encumbrances previously approved by Purchaser and containing such endorsements as Purchaser may reasonably request.

(g) All of Seller's representations and warranties contained herein shall be true and correct on the Closing Date.

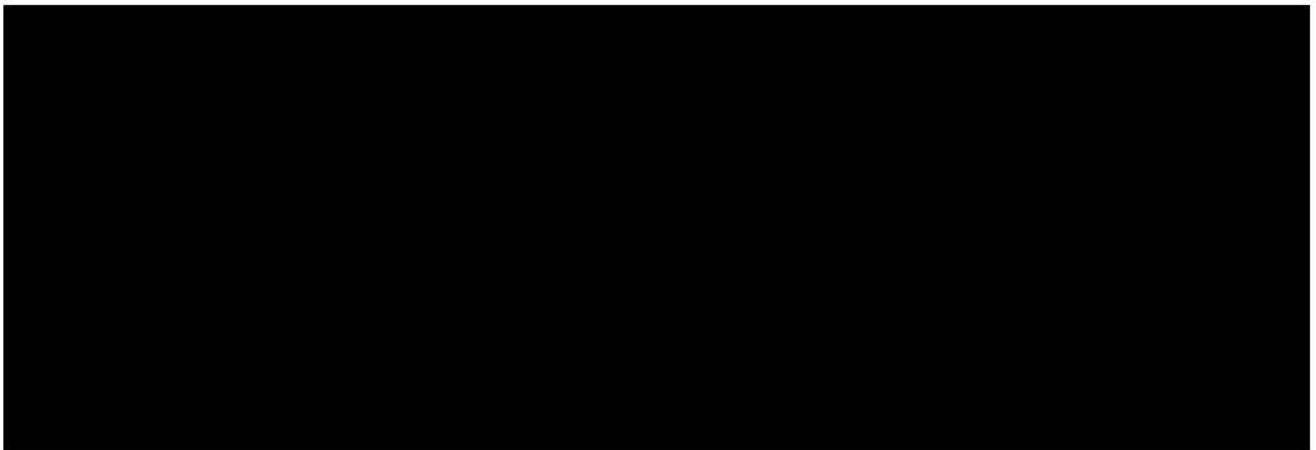
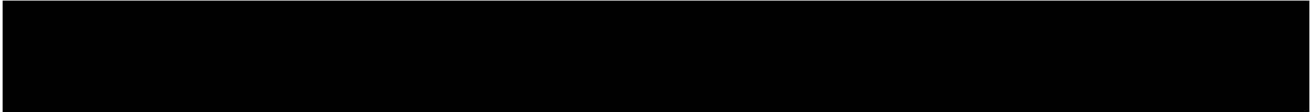
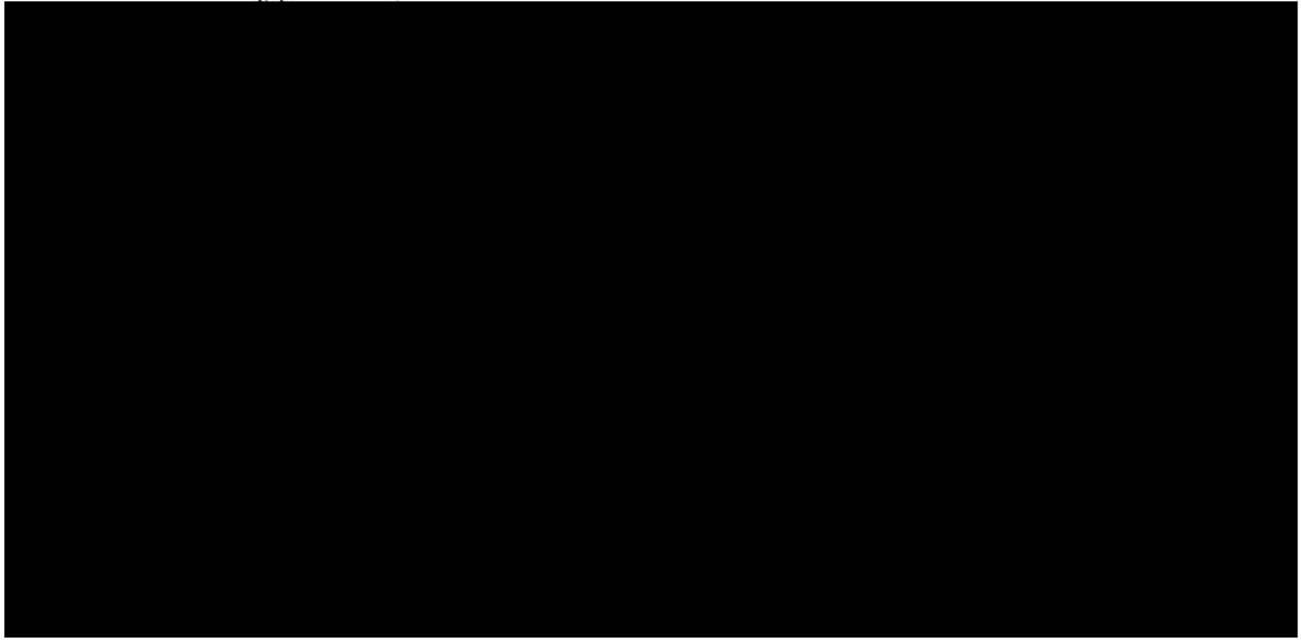
(h) Seller has delivered into escrow all deliverables required in accordance with Section 10(b) below.

(i) Seller is not otherwise in default of this Agreement.

(j) The Land constitutes a separate legal parcel in accordance with all applicable laws. This legal parcel condition is not subject to waiver by the parties.

(k) Seller is unconditionally committed to grant to Purchaser, any Seller's Easement(s) to the extent necessary (as reasonably determined by Purchaser).

9. Remedies.





SELLER INITIALS: _____] [_____]
 PURCHASER INITIALS: _____] [_____]

10. Closing and Escrow.

(a) The parties shall conduct an escrow Closing pursuant to this Section 10 on a date to be selected by Purchaser, which date shall be specified in Purchaser's notice exercising the Option pursuant to Section 4, and shall be no less than _____ after Purchaser delivers such notice, or on such other date as Purchaser and Seller may agree in writing in their sole and absolute discretion (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser. In the event the Closing does not occur on or before the Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the respective party any items previously delivered by such party to the Title Company. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

(b) At or before the Closing, Seller shall deliver to the Title Company (for delivery to Purchaser upon the Closing) the following:

- (i) a duly executed and acknowledged Deed in the form attached hereto as Exhibit C;
- (ii) all material documents, agreements and correspondence and items relating to the ownership, operation, maintenance or management of the Property;
- (iii) a duly executed bill of sale agreement transferring title to all of Seller's interest in any personal property located on the Property as of Closing in a form reasonably acceptable to Seller and Purchaser (the "Bill of Sale") (provided, however, that neither the delivery by Seller, nor the acceptance by Purchaser, of this Bill of Sale obviates Seller's obligation to deliver the Property free and clear of all personal property at Closing;
- (iv) a duly executed assignment and assumption agreement assigning Seller's interest in the Intangible Personal Property in a form reasonably acceptable to Seller and Purchaser (the "Assignment of Intangibles");

(v) evidence that all Service Contracts and Leases have been terminated;

(vi) a certificate, dated as of the date of Closing certifying that the representations and warranties set forth in Section 11 are true and correct as of the Closing Date;

(vii) a certificate of non-foreign status in accordance with the requirements of Internal Revenue Code Section 1445, as amended;

(viii) the Seller's Easement(s), if applicable; and

(ix) any other closing documents reasonably requested by the Title Company or Purchaser, including an owner's affidavit in a form reasonably requested by the Title Company. Purchaser may, in its sole and exclusive discretion, waive compliance on Seller's part under any of the foregoing items by an instrument in writing.

(c) At or before the Closing, Purchaser shall deliver to the Title Company (for delivery to Seller upon the Closing) the following:

(i) the balance of the Purchase Price in cash or other immediately available funds, subject to prorations and adjustments as set forth herein;

(ii) the Assignment of Intangibles duly executed by Purchaser; and

(iii) any customary and/or reasonable closing documents requested by the Title Company.

(d) The following are to be apportioned as of the Closing Date as follows, with Purchaser being deemed to be the owner of the Property during the entire day on which the Closing takes place and being entitled to receive all income of the Property, and being obligated to pay all expenses of the Property, with respect to such day:

(i) Utility Charges. Seller shall be responsible for the cost of all utilities used, if any, prior to the Closing Date.

(ii) Other Apportionments; Closing Costs. Property taxes shall be apportioned as of the Closing Date based on the latest available tax bill.

other costs and charges of the escrow for the sale not otherwise provided for in this Section 10(d)(ii) or elsewhere in this Agreement shall be allocated in accordance with the applicable closing customs for the county in which the Property is located, as determined by the Title Company. If any of the

aforesaid pro-rations cannot be calculated accurately as of the Closing Date, then they shall be calculated as soon after the Closing as feasible. Either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party.

Closing [REDACTED] (iii) Survival. The provisions of this Section 10(d) shall survive the

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has not, and as of the Closing, Seller shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not, and as of the Closing shall not be, a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement (i) has been duly authorized, executed and delivered by Seller, and (ii) does not, and as of the Closing shall not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) There is no litigation pending or threatened with respect to the Property or the transactions contemplated hereby or that would impair Seller's ability to perform under this Agreement.

(e) There are no violations of any applicable environmental, zoning or land use law, or any other applicable local, state or federal law or regulation relating to the Property, including, without limitation, the Americans with Disabilities Act of 1990 and Seller is not aware of any proposed or pending changes in zoning or proposed relocation, reconfiguration or other change with respect to any street or road affecting the Property, if any.

(f) There are no condemnation proceedings pending or threatened that would result in the taking of any portion of the Property. Seller has not received any written notice of any special assessment proceedings affecting the Property that are not disclosed on the Preliminary Report.

(g) The parties comprising Seller under this Agreement are the sole owners of the Property and Seller holds good and marketable fee simple title to the Property according to laws of the State where the Property is located.

(h) The Land, as of the Closing Date, constitutes a separate legal parcel (or separate legal parcels) in accordance with all applicable laws.

(i) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(j) The Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement are, or when delivered will be, all of the relevant documents, materials, reports and other items pertaining to the condition and operation of the Property, will be true, correct and complete copies, and will be in full force and effect, without default by any party and without any right of set-off except as disclosed in writing at the time of such delivery.

(k) Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller.

(l) Hazardous Materials have not at any time been generated, used or stored on, or transported to or from, or released or disposed of on the Property in violation of environmental laws and restrictions, and Seller has not used Hazardous Materials on the Property for purposes other than (i) as necessary to operate and maintain the Property and (ii) in compliance with all environmental laws and restrictions. There are not now and never have been any underground storage tanks located on or under the Property and there is no asbestos contained in, forming part of, or contaminating any part of the Property. For the purposes hereof, "Hazardous Materials" shall mean (i) any petroleum or petroleum distillates and products, flammable explosives, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls in any concentrations, and radon gas; (ii) any chemicals, materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any environmental laws and restrictions; and (iii) any other chemical, material, substance, or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority.

All representations and warranties made by Seller herein or made in writing pursuant to this Agreement shall be deemed to be material, shall be deemed remade as of the Closing and shall survive the execution and delivery of this Agreement and the Closing for a period of [REDACTED]

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a duly organized and validly existing limited liability company in good standing under the laws of the State in which it was formed; this Agreement and all documents executed by Purchaser which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Purchaser is subject.

(b) Purchaser has not, and as of the Closing, Purchaser shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Purchaser's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, which remains

pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

All representations and warranties made by Purchaser herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing for a period of [REDACTED]

13. Condition of Improvements and Risk of Loss.

(a) Seller agrees that upon delivery of the Deed, the Property (including all Improvements) shall be in the same condition as they are on the Effective Date of this Agreement, reasonable wear and tear excepted.

(b) In the event of any damage to the Property due to casualty before Closing, such damage may be repaired by and at the cost of Seller prior to the Closing, and if not so repaired, Purchaser may elect to either (i) if such damage materially impacts Purchaser's planned use of the Property, [REDACTED]

[REDACTED]

(c) Purchaser shall assume all risk of loss with respect to the Property at 5:00 p.m. Pacific Standard Time on the Closing Date.

14. Access; Indemnity; Possession.

(a) Access. Commencing on the Effective Date and through the Closing Date or the earlier termination of this Agreement, Seller shall, and shall cause Seller's tenants, if any, to afford authorized representatives of Purchaser reasonable access to the Property for purposes of satisfying Purchaser with respect to the representations, warranties and covenants of Seller contained herein and with respect to satisfaction of any Diligence Period Condition or any Condition Precedent, including, without limitation, to conduct Purchaser's Due Diligence Investigations, measurement of meteorological characteristics of the Property which may require the installation of a meteorological station, conducting of geotechnical tests and borings and performing a Phase I or Phase II environmental site assessment of the soils, waters and improvements on the Property. [REDACTED]

[REDACTED]

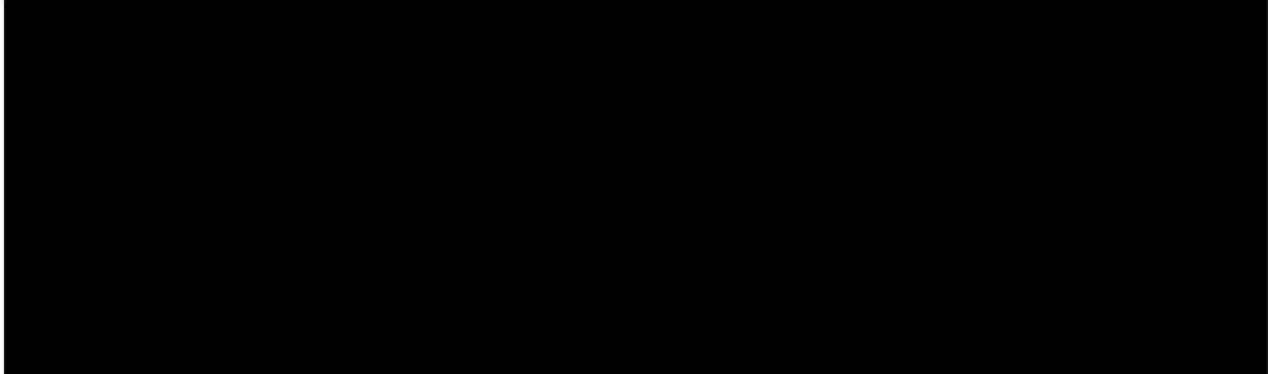
[REDACTED]
[REDACTED] r
[REDACTED]. During the Option Term, at Purchaser's option and with prior notice to Seller, Seller shall (and shall cause Seller's tenants, if any, to) allow Purchaser access to the Property for purposes of controlling the formation of wetlands or wildlife habitat. If this Agreement is terminated for a reason other than a default under this Agreement by Seller, Purchaser shall repair the damage caused by Purchaser's entry onto and/or inspections of the Property; provided, however, the foregoing shall not require Purchaser to repair or remediate any conditions that are merely discovered by Purchaser. [REDACTED]

case, [REDACTED]

(b) Seller's Continued Use of Property. During the Option Term, subject to Purchaser's rights set forth in this Agreement, Seller may continue to use or lease the Property. All existing Leases shall be terminated by Seller [REDACTED] effective prior to the Closing and Seller shall deliver possession of the Property free and clear of any interests or rights of tenants, licensees, or other occupants in possession. Seller shall (and shall cause Seller's tenants, if any, to) remove all personal property, motor homes, junk, trash, sheds and similar property from the Property on or before the date that is seven (7) days prior to the Closing Date. [REDACTED]

[REDACTED]
[REDACTED] Following the Effective Date, Seller shall not renew any existing Lease, enter into any new lease for all or any part of the Property, or agree to or allow any other lien, encumbrance, easement or other exception or matter to affect the Property, title thereto or the Survey (collectively, "New Matter"), without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that if such New Matter would remain in effect after Closing, such consent may be withheld in Purchaser's sole and absolute discretion.


(c) Possession. Possession of the Property shall be delivered to Purchaser at 5:00 p.m. Pacific Standard Time on the Closing Date.

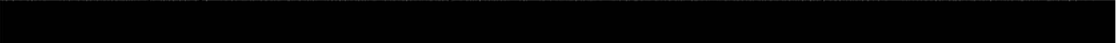


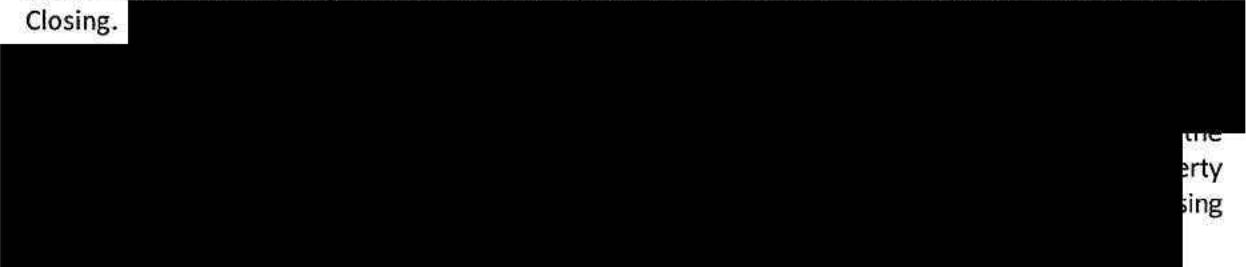
15. Seller Covenants.

(a) At the time of the Closing, Seller shall cause to be paid in full all obligations under any outstanding written or oral contracts made by Seller for any improvements to the Property, and Seller shall cause to be discharged all mechanics' and materialmen's liens arising from any labor or materials furnished to the Property prior to the time of the Closing.

(b) Between the Effective Date and the Closing, to the extent Seller has any knowledge thereof, Seller shall promptly notify Purchaser of the following items relating to the Property: (i) any condemnation, environmental, zoning or other land-use regulation proceedings; (ii) any notices of violations of any laws; (iii) any litigation relating to the Property or that arises out of the ownership of the Property or affects Seller's ability to perform under this Agreement; and (iv) the termination, modification or default under any Leases or Service Contracts.

(c) Through the Closing Date, Seller shall maintain or cause to be maintained, at  all policies of insurance currently in effect with respect to the Property (or comparable replacements thereof) and Seller shall maintain the Property in the same condition existing as of the Effective Date, reasonable wear and tear excepted.

(d) Seller shall also deliver to Purchaser copies of any bills for real estate taxes and personal property taxes and copies of any notices pertaining to real estate taxes or assessments applicable to the Property that are received by Seller after the Effective Date, even if received after Closing. 



(e) Seller shall remove the Property from the market, if listed, and shall not market the Property for sale during the term of this Agreement.

(f) Purchaser shall have the right, at Purchaser's expense, to apply for, change and/or obtain zoning changes, general plan amendments, land use entitlements, planning approvals, permits, tax classifications, , property tax exemptions, subdivision and/or lot line adjustment

approvals affecting the Property consistent with Purchaser's intended use of the Property. Seller shall cooperate with Purchaser in Purchaser's efforts to obtain such approvals by executing such documents and taking such actions as are reasonably necessary to obtain such approvals. Seller agrees that it shall not contest, challenge or publicly or privately dispute, verbally or in writing, Purchaser's efforts to obtain any such approvals.

16. Miscellaneous.

(a) Binding on Successors. This Agreement shall be binding not only upon the parties but also upon their respective heirs, executors, personal representatives, assigns, and other successors in interest.

(b) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one (1) business day after being deposited with FedEx or another reliable overnight courier service, with receipt acknowledgment requested, (iii) upon receipt if transmitted by facsimile telecopy, with a copy sent on the same day by one of the other permitted methods of delivery, or (iii) upon receipt or refused delivery deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

IF TO SELLER:

James C. and Mary M. Robinson

[REDACTED]

Phone [_____]

Fax No.: [_____]

E-mail (for informational purposes only): [_____]

IF TO PURCHASER:

Hummingbird Solar LLC

7804-C Fairview Rd. #257

Charlotte, NC 28226

Attn: Walter Putnam

Phone: (704) 574 -1587

Fax No.: [_____]

Email: walter.putnam@geenexsolar.com

WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO:

Kilpatrick Townsend & Stockton LLP

4208 Six Forks Road, Suite 1400

Raleigh, NC 27609

Attn: John Livingston

Phone: (919) 420-1768

Fax No.: (919) 510-6143

Email: jlivingston@kilpatricktownsend.com

or such other address as either party may from time to time specify in writing to the other.

(c) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any broker or finder makes a claim for a commission or finder's fee based upon any contact, dealings or communication, the party whose conduct is the basis for the broker or finder making its claim shall indemnify, defend and hold harmless the other party against and from any commission, fee, liability, damage, cost and expense, including without limitation attorneys' fees, arising out of or resulting from any such claim. The provisions of this Section 16(d) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement, in each case, for twelve (12) months.

(d) Recording and Subordination. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located (the "Memorandum"). If this Agreement is terminated, Purchaser agrees to execute and record a termination of the Memorandum in the form attached hereto as Exhibit D-1. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall obtain from the holder of any mortgage or deed of trust liens or any other monetary lien encumbering the Property a reasonable subordination agreement whereby the holder of such lien agrees that its lien is subordinate to Purchaser's option.

(e) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

(g) Merger of Prior Agreements. This Agreement and the exhibits and schedules hereto, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

(h) Time of the Essence. Time is of the essence of this Agreement; provided, however, should the date for payment or performance required under this Agreement fall on a non-business day (i.e., Saturday, Sunday or any other day on which national banks in California are not open for business), then the date required for payment or performance under this Agreement shall be extended to the first business day following the non-business day on which such payment or performance was required.

(i) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(j) Confidentiality. Seller agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated hereby; provided, however, that Seller, its agents and representatives may disclose such information and data (a) to its accountants, attorneys, and other advisors in connection with the transactions contemplated by this Agreement (collectively "Representatives") to the extent that such Representatives reasonably need to know such information and data in order to assist, and perform services on behalf of, Seller, but Seller shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; and (c) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. The provisions of this Section 16(j) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement. Notwithstanding the provisions of this Section 16(k), the recording of the memorandum of this Agreement as contemplated by Section 16(d) is expressly permitted.

(k) Attorneys' Fees. The prevailing party in any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Agreement or for the interpretation of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

(l) Counterparts and Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Signatures required under this Agreement may be transmitted by facsimile or electronic mail and, once received by the party to the Agreement to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company


By: 

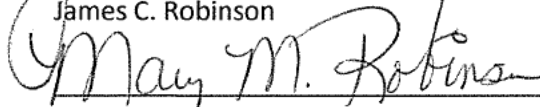
Name: EMERGEN FENTK

Its: MANAGER

Date: April 24th, 2020

SELLER:


James C. Robinson


Mary M. Robinson

Date: March 19, 2020

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Approximately 33.3 acres of that certain land identified by Tax parcel ID No. 069-00-00-023.00, located in Fleming County, Kentucky consisting of approximately 53.27 acres described as follows:

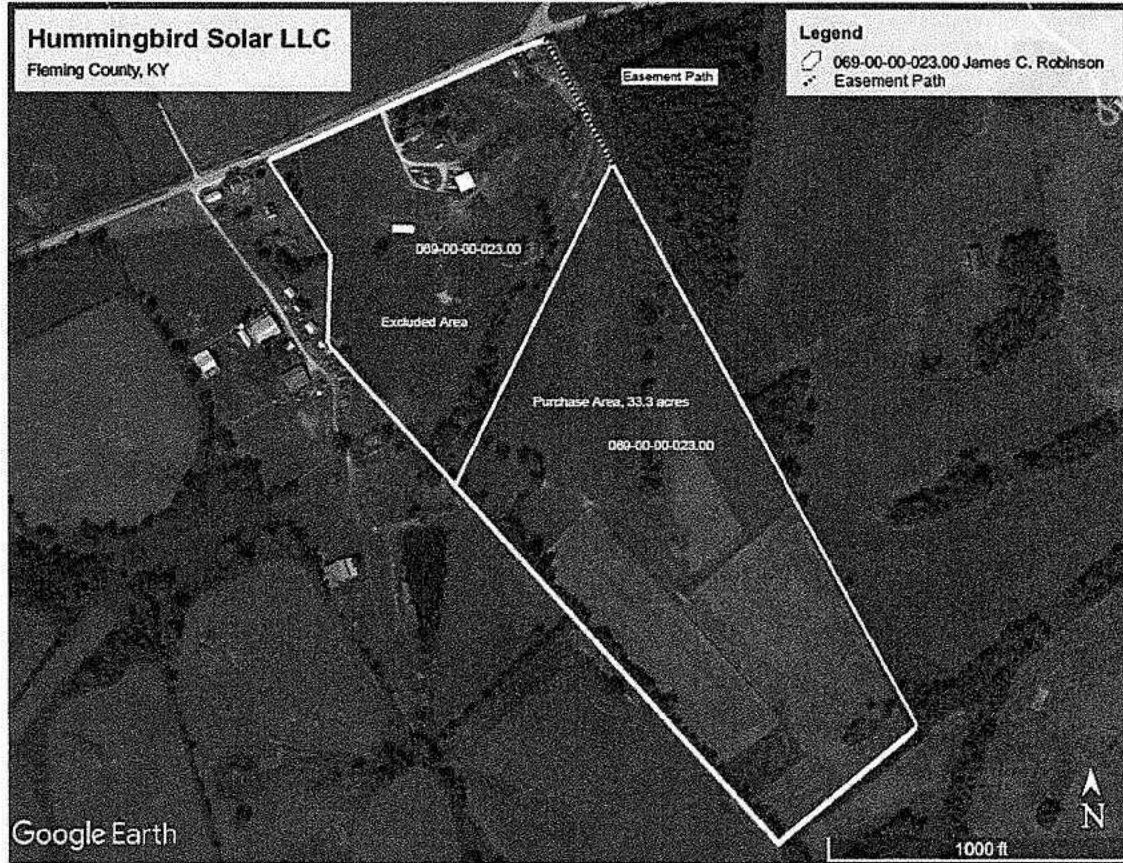
real estate, to wit:

A certain tract or parcel of land, lying and being in Fleming County, State of Kentucky, about 5 miles Northeast of Flemingsburg on the Mt. Carmel turnpike road and bounded as follows:

BEGINNING at a stake upon the center of the turnpike, the Northwest corner of the Nute farm; thence with the center of the pike S 45-1/2 W 8 poles; S 65 W 52-3/4 poles to a corner of toll house lot; thence with a line of same S 29 E 28-1/2 poles to a stake; thence S 36 W 84-1/10 poles to a set stone, corner to Lot No. 2; thence with the line of same S 42-1/2 E 137-1/2 poles to a set stone, corner to same and also to Marshall; thence with his line N 49-1/4 E 34-1/3 poles to a stone, corner to Foxworthy; thence with his and Cook's line N 28-1/4 W 157-1/4 poles to the beginning, containing 53 acres.

Being the same property conveyed Mark A. Follmer and Debbie A. Follmer, his wife, from Jean W. Denny, Guardian for Landy Watts, by Deed dated February 22, 1988, recorded in D.B. 165, page 162; and the same property conveyed Mark A. Follmer, single, from Debbie A. Follmer, single, by Deed dated July 14, 1995, and recorded in Deed Book 183, page 44, all of record in the Fleming County Clerk's Office.

EXHIBIT A-1
DEPICTION OF LAND



Notwithstanding anything herein to the contrary, Seller and Purchaser agree to add a legal description of the Land to be purchased as soon as it has been prepared by a licensed surveyor. Seller and Purchaser acknowledge that the final acreage of the Land may be more or less than 33.3 acres upon receipt of the survey.

EXHIBIT B

**TERMINATION AGREEMENT
OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

APN 069-00-00-023.00, FLEMING COUNTY, KENTUCKY

THIS TERMINATION AGREEMENT (this "Termination Agreement"), dated as of [____], 20__ (the "Termination Date"), is entered into by and between **James C. Robinson and Mary M. Robinson**, ("Seller") and **Hummingbird Solar LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to that certain Option Agreement for the Purchase and Sale of Real Property, dated as of [____], 2020 (the "Option Agreement"), pursuant to which Seller granted Purchaser an exclusive and irrevocable option to purchase from Seller certain real property located in Fleming County, Kentucky (APN: 069-00-00-023.00) on the terms and conditions set forth in the Option Agreement.

B. Pursuant to Section 2(b) of the Option Agreement, Purchaser has the right to terminate the Option Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

C. Purchaser has elected to terminate the Option Agreement pursuant to Section 2(b) thereof, and Purchaser and Seller desire to enter into this Termination Agreement in order to evidence such termination and to release one another from their respective obligations thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereby agree as follows:

1. Defined Terms. Initially capitalized terms used but not defined herein have the meanings set forth in the Option Agreement.

2. Termination of the Option Agreement. Purchaser has terminated the Option Agreement by notice dated [____], 20__, and Purchaser and Seller hereby agree that the Option Agreement has terminated without liability to either party and is of no further force or effect.

3. Release of Liability. Except as otherwise provided herein, Purchaser and Seller are fully and unconditionally released and discharged from their respective obligations under the Option

Agreement, whether arising before or after the termination and including with respect to the payment of any consideration thereunder.

4. Surrender of Property. Purchaser acknowledges its release and surrender to Seller of all of any right, title and interest in and to the Property and hereby agrees to vacate the Property.

5. Successors and Assigns. This Termination Agreement shall be binding upon and shall inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

6. Counterparts. This Termination Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties.

7. Governing Law. This Termination Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Kentucky.

8. Documentation. Each party shall execute and deliver such additional instruments, agreements, and documents and take such other actions as the other party may reasonably require in order to carry out the intent and purpose of this Termination Agreement.

9. Severability. If any term or provision of this Termination Agreement shall be held invalid or unenforceable, the remainder of this Termination Agreement shall not be affected.

10. No Third Party Beneficiaries. This Termination Agreement is solely for the benefit of Purchaser and Seller and their successors and permitted assigns and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Termination Agreement to be executed and delivered as of the day and year first written above.

PURCHASER:

SELLER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: _____
James C. Robinson

By: _____
Name:
Title:

By: _____
Mary M. Robinson

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

WHEN RECORDED RETURN TO:

HUMMINGBIRD SOLAR LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attention: Walter Putnam

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made and entered into as of the ____ day of _____, _____, between **JAMES C. ROBINSON and wife, MARY M. ROBINSON**, who are ("Grantor") and having an address of _____, and (b) **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Grantee") and having an address of 7804-C Fairview Rd. #257, Charlotte, NC 28226, which is the in care of address for Grantee to which tax bills may be sent.

WITNESSETH

For a total consideration of \$_____, the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple with covenant of Special Warranty certain real property located in Fleming County, Kentucky and more particularly described on EXHIBIT A attached hereto and made a part hereof together with all appurtenances thereto (the "Property").

Grantor covenants (a) lawful seisin of the Property (b) full right and power to convey same, and (c) that the Property is free and clear of all liens and encumbrances by or in favor of any party claiming by, through or under Grantor except liens for real property taxes and assessments due and payable in _____ and thereafter, which Grantee assumes and agrees to pay. This conveyance is made subject to all (i) easements, restrictions and stipulations of record, and (ii) governmental laws, ordinances and regulations affecting the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Special Warranty Deed, certify that the consideration recited above is the full consideration paid by Grantee to Grantor for the Property.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor and Grantee duly executed this Deed as of the date first set forth above.

GRANTOR:

James C. Robinson

Mary M. Robinson

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Special Warranty Deed was sworn to and acknowledged before me on _____, _____ by James C. Robinson and Mary M. Robinson.

Notary Public
My Commission Expires: _____

GRANTEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Special Warranty Deed was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar, LLC, a Kentucky limited liability company, on behalf of such company.

Notary Public _____

My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

Property located in Fleming County, Kentucky, more particularly described as follows:

[To be attached]

EXHIBIT D

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY and
WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF OPTION AGREEMENT

This MEMORANDUM OF OPTION AGREEMENT (this "Memorandum") is dated and made as of [_____], 2020, by and between **James C. Robinson and Mary M. Robinson** ("Owner"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Optionee").

WHEREAS:

A. Owner owns the real property more particularly described on **Exhibit A** attached hereto, which by this reference is incorporated herein (the "Property").

B. Owner and Optionee have entered into that certain Option Agreement for the Purchase and Sale of Real Property dated as of [_____], 2020 (the "Option Agreement"), which is incorporated herein by reference as though fully set forth herein, to provide an option in favor of Optionee to purchase a portion of the Property according to the terms and conditions of the Option Agreement. The consideration for the Option Agreement is included therein.

C. The Effective Date under the Option Agreement is [_____], 2020. The Option Term is effective through [REDACTED].

D. Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to

purchase a portion of the Property on the terms and conditions set forth in the Option Agreement. All of the terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Option Agreement. Should there be any inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall prevail.

This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date set forth above.

Owner:

By: _____
James C. Robinson

By: _____
Mary M. Robinson

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Memorandum of Option Agreement was sworn to and acknowledged before me on _____, ____ by James C. Robinson and Mary M. Robinson.

Notary Public _____
My Commission Expires: _____

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date set forth above.

Optionee:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Memorandum of Option Agreement was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar LLC, a Kentucky limited liability company, on behalf of such company.

Notary Public _____

My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

EXHIBIT A TO MEMORANDUM OF OPTION AGREEMENT

LEGAL DESCRIPTION

Approximately 33.3 acres of that certain land identified by Tax parcel ID No. 069-00-00-023.00, located in Fleming County, Kentucky consisting of approximately 53.27 acres described as follows:

real estate, to wit:

A certain tract or parcel of land, lying and being in Fleming County, State of Kentucky, about 5 miles Northeast of Flemingsburg on the Mt. Carmel turnpike road and bounded as follows:

BEGINNING at a stake upon the center of the turnpike, the Northwest corner of the Nute farm; thence with the center of the pike S 45-1/2 W 8 poles; S 65 W 52-3/4 poles to a corner of toll house lot; thence with a line of same S 29 E 28-1/2 poles to a stake; thence S 36 W 84-1/10 poles to a set stone, corner to Lot No. 2; thence with the line of same S 42-1/2 E 137-1/2 poles to a set stone, corner to same and also to Marshall; thence with his line N 49-1/4 E 34-1/3 poles to a stone, corner to Foxworthy; thence with his and Cook's line N 28-1/4 W 157-1/4 poles to the beginning, containing 53 acres.

Being the same property conveyed Mark A. Follmer and Debbie A. Follmer, his wife, from Jean W. Denny, Guardian for Landy Watts, by Deed dated February 22, 1988, recorded in D.B. 165, page 162; and the same property conveyed Mark A. Follmer, single, from Debbie A. Follmer, single, by Deed dated July 14, 1995, and recorded in Deed Book 183, page 44, all of record in the Fleming County Clerk's Office.

Fleming, KY
Hummingbird

EXHIBIT D-1

Recording requested by
and when recorded mail to:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TERMINATION OF [MEMORANDUM OF OPTION AGREEMENT]

THIS TERMINATION OF MEMORANDUM OF OPTION AGREEMENT ("Termination") is made as of the ____ day of ____, 20__ by **Hummingbird Solar LLC**, a Kentucky limited liability company ("Grantor").

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby remises, releases and forever quitclaims unto [_____], all of Grantor's rights and interests in the real property more particularly described in Exhibit A attached hereto, which Grantor may have acquired pursuant to that certain [**Option Agreement for the Right to Purchase Property**], dated as of [___], a memorandum of which was recorded on [___] as Instrument Number [___], in Volume [___], Page [___], in the Official Records of [___] County, [___], *[as affected by (Amendment to Option to Land Lease and Land Lease Agreement/Amendment to Option Agreement for the Purchase and Sale of Real Property) dated _____, an amendment to memorandum of which was recorded on [] as Instrument Number [], in Volume [], Page [], in the Official Records of _____ County, STATE]*

[SIGNATURE PAGE FOLLOWS]

Fleming, KY
Hummingbird

IN WITNESS WHEREOF, Grantor has executed this Termination as of the date first above written.

GRANTOR:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Termination of Memorandum of Option Agreement was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar LLC, a Kentucky limited liability company, on behalf of such company.

Notary Public _____

My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

Fleming, KY
Hummingbird

EXHIBIT A
to Termination of Memorandum of Option Agreement

Legal Description

Fleming, KY
Hummingbird

EXHIBIT E

SELLER EASEMENT LOCATION



THE EASEMENT SHALL BE LOCATED ON THE NORTH SIDE OF SELLER'S FARM AND WILL FOLLOW THE PROPERTY LINE. NOTWITHSTANDING THE FOREGOING, SELLER AND PURCHASER SHALL REPLACE THIS EXHIBIT E WITH A LEGAL DESCRIPTION OF THE EASEMENT LOCATION AS SOON AS IT IS PREPARED.

Fleming, KY
Hummingbird

**OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

**APN NO. 058-00-00-024.00
FLEMING COUNTY, KENTUCKY**

THIS OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made and entered into as of this 16 day of July, 2020 (such date being the date this Agreement is last signed and executed, (the "Effective Date"), by and between **ROBERT A. LIST, a married man and DOTTIE A. LIST, an unmarried woman** (collectively, "Seller"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Seller is the owner of certain real property in Fleming County, in the state of Kentucky, containing approximately 138 acres of land, commonly identified as APN 058-00-00-024.00 (the "Land"), as more particularly described on **Exhibit A** attached hereto and incorporated herein.

B. As used in this Agreement, the term the "Property" shall mean, collectively: (a) the Land, together with all of Seller's right, title and interest in all rights, easements, rights-of-way and other interests appurtenant thereto including, but not limited to, any streets or other public ways adjacent to such Land and any development rights, water rights or mineral rights owned by, or leased to, Seller; (b) all improvements located on such Land, if any (all such improvements being collectively referred to herein as the "Improvements"); and (c) all trademarks, trade names, permits, approvals, and entitlements and other intangible property used in connection with the foregoing, including, without limitation, all of Seller's right, title and interest in any and all warranties and guaranties relating to the Property (collectively, the "Intangible Personal Property").

C. Seller desires to grant to Purchaser an option to purchase the Property on the terms set forth herein. Seller acknowledges that upon acquisition of the Property, Purchaser shall be free to use and dispose of such Property in any manner Purchaser deems appropriate and that Purchaser may sell such Property for any price Purchaser deems appropriate to any subsequent buyer.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Grant of Option to Purchase.

(a) Option to Purchase. Seller hereby grants to Purchaser an exclusive and irrevocable option (the "Option") to purchase from Seller and, if Purchaser exercises the Option, agrees to sell to Purchaser, all of the Property, subject to and upon the terms, covenants and conditions set forth herein.

2. Option Term.

(a) Term. The term of the Option shall commence on the Effective Date and shall expire on the date that is [REDACTED] (the "Option Term"). If Purchaser does not exercise the Option or terminate this Agreement prior to the expiration of the Option Term, Purchaser shall be deemed to have terminated this Agreement, and the parties shall both execute a writing confirming such termination.

(b) Purchaser's Right to Terminate. Notwithstanding anything in this Agreement to the contrary, Purchaser shall have the right to terminate this Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

[REDACTED]
Upon any termination of this Agreement, Purchaser and Seller agree to document such termination by executing and delivering to each other a Termination Agreement in the form attached hereto as Exhibit B and incorporated herein.

3. Option Consideration.

(a) Signing Consideration. Within ten (10) business days after the Effective Date, Purchaser shall pay to Seller the amount of [REDACTED] (the "Signing Option Consideration").

[REDACTED]
in Section 9 (or as elsewhere expressly provided in this Agreement). The parties acknowledge and agree that the Signing Option Consideration is adequate consideration paid by Purchaser to Seller for entering into this Agreement and the right and ability of Purchaser to commence its due diligence of the Property and evaluate the transaction contemplated by this Agreement.

(b) Option Payments. On or before the respective payment dates set forth below, Purchaser shall pay and release to Seller the additional sums set forth below (collectively, with the Signing Option Consideration, the ("Option Consideration"), all in the form of immediately available funds. [REDACTED]
Price at Closing is [REDACTED]
[REDACTED]

<u>Amount of Option Consideration</u>	<u>Payment Date</u>
---------------------------------------	---------------------

[REDACTED]	[REDACTED]
------------	------------

(c) Account Information. All payments made by Purchaser under this Section 3 shall be made by wire transfer to the following bank account at Seller's financial institution:

[Name of Payee: _____, _____% of Option Consideration payment, to the following bank account:]

Name of Bank: [_____]
Bank Address: [_____]
Bank Telephone No: [_____]
ABA No: [_____]
For credit to Account No. [_____]
Account Name: [_____]

[Name of Payee: _____, _____% of Option Consideration payment, to the following bank account:]

Name of Bank: [_____]
Bank Address: [_____]
Bank Telephone No: [_____]
ABA No: [_____]
For credit to Account No. [_____]
Account Name: [_____]

[Seller expressly authorizes and approves the payment direction to the Seller as forth above and waives any claims against Purchaser in the event that payments are made in conformance with the terms herein. _____]

_____ Payment shall be deemed made and paid upon issuance of a wire transfer confirmation number for the transfer of such funds to Seller's account from Purchaser's financial institution.

(d) Termination for Failure to Pay. If Purchaser fails to make a payment of Option Consideration within _____

_____ payment date. If this Agreement is so deemed terminated, or is otherwise terminated as provided herein, Purchaser shall have no further obligation to pay any Option Consideration that has a payment date that is on or following the date of such termination.

4. Exercise of Option.

The Option may be exercised upon Purchaser's written notice to Seller of its election to exercise the Option ("Option Notice") within the Option Term specified in Section 2. Such Option Notice shall be deemed timely if it is transmitted by facsimile, delivered or mailed, certified mail, return receipt

requested, or via a nationally recognized overnight delivery service within the time period specified in Section 2. Purchaser's Option Notice shall specify the Purchase Price (defined below) for the Property. In the event that Purchaser timely exercises the Option, Seller shall sell to Purchaser and Purchaser shall buy from Seller the Property, on the terms and conditions established in this Agreement.

5. Purchase Price.

(a) The "Purchase Price" for the Property shall be equal to [REDACTED]

(b) The Purchase Price shall be paid at the closing of the sale of the Property to Purchaser (the "Closing") as follows:

(i) [REDACTED]

(ii) The balance of the Purchase Price, plus or minus prorations and other adjustments hereunder, shall be paid to Seller in cash or other immediately available funds at the Closing.

6. Due Diligence and Time for Satisfaction of Conditions.

Purchaser shall have the right to access the Property and to commence due diligence with respect to the Property immediately following the Effective Date, and the due diligence period ("Due Diligence Period") shall expire at 5:00 p.m. Pacific Standard Time on the last day of the Option Term. Within five (5) days after the Effective Date, Seller shall deliver to Purchaser or make available to Purchaser and its employees, representatives, counsel and consultants access to all of its books, records and files relating to the Property in Seller's possession or control, including, without limitation, all of the items set forth in Section 7 below (collectively, the "Due Diligence Items").

7. Diligence Period Conditions.

The following shall be conditions precedent to Purchaser's obligation to purchase the Property (the "Diligence Period Conditions"):

(a) Purchaser's review and approval of written documentation satisfactory to Purchaser, confirming that Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and that the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller. Seller shall deliver such written documentation to Purchaser within five (5) days after the Effective Date.

(b) Purchaser's review and approval of the Due Diligence Items, including, but not limited to, any and all tenant leases (including oil, gas or mineral rights), if any, and all amendments thereto (collectively, the "Leases"); all contracts pertaining to the use and operation of the Property, if any (collectively, the "Service Contracts"); permits and entitlements; any materials or reports concerning the physical condition of the Property; any records of the use of Hazardous

Materials (defined below) on the Property; and such other documents and information reasonably requested by Purchaser, including, but not limited to, any existing Phase I and/or II Environmental Site Assessment, geotechnical studies, biological studies, cultural resource studies, wetland studies, drainage studies and/or plans, improvement plans, building plans, traffic studies, water supply assessment studies, and crop planting and harvesting schedules, if any. All Leases and Service Contracts shall be terminated by Seller [REDACTED] and expense effective prior to the Closing.

(c) Purchaser's review and approval of the condition of title to the Property. Purchaser shall obtain a current preliminary title report or a commitment for title insurance with respect to all of the Land, issued by Old Republic Title Insurance Company or a national title insurance company selected by Purchaser in its sole discretion (the "Title Company"), accompanied by copies of all documents referred to in the report or commitment (collectively, the "Preliminary Report"). Seller shall deliver to Purchaser [REDACTED] within five (5) days after the Effective Date, the following:

(i) copies of all existing and proposed easements, covenants, restrictions, agreements or other documents which affect title to the Property that are actually known by Seller and are not recorded (and, within five (5) days after Purchaser's delivery to Seller of a copy of the Preliminary Report, any such documents that are actually known by Seller that may be recorded, but that are not disclosed by the Preliminary Report) (collectively, "Undisclosed Encumbrances"), including but not limited to any existing above ground or below ground irrigation pipes, water wells, pumps, gas lines, and electrical service lines serving the Property (and if no such documents exist, a written explanation of or map showing the existence of any such items); and

(ii) the most recent survey of the Property, if available. Purchaser shall have the right, [REDACTED] to obtain a new survey of the Property and/or an update of any survey provided by Seller. Any surveys provided by Seller, together with any new or updated survey obtained by Purchaser, are collectively referred to herein as the "Survey".

Purchaser shall have until [REDACTED] to notify Seller in writing of any objections (the "Title Objections") with respect to the Preliminary Report, Undisclosed Encumbrances and the Survey based on its review thereof. Seller shall have five (5) business days after receipt of the Title Objections to notify Purchaser in writing that Seller (a) will cause, or (b) elects not to cause, any or all Title Objections disclosed therein to be removed or otherwise cured prior to Closing. Seller's failure to notify Purchaser within such five (5) business day period as to any Title Objections shall be deemed an election by Seller not to remove or otherwise cure such Title Objections. If Seller notifies or is deemed to have notified Purchaser that Seller will not remove or otherwise cure any or all of the Title Objections, Purchaser shall have until [REDACTED] to (i) terminate this Agreement, or (ii) waive such Title Objections (failure of Purchaser to provide Seller notice of either (i) or (ii) above shall be deemed a waiver by Purchaser of such Title Objections). [REDACTED]

[REDACTED] Purchaser shall have the

[REDACTED] Purchaser may additionally, at any time prior to the Closing, notify Seller in writing (the "Gap Notice") of Purchaser's objection to any title exceptions or Survey matters not created by Purchaser or with Purchaser's prior written consent (A) raised by the Title Company or otherwise disclosed to Purchaser between the expiration of the Due Diligence Period and the Closing and (B) not disclosed by the Title Company or otherwise known to Purchaser prior to the expiration of the Due Diligence Period (the "New Title Matters"). If Purchaser sends a Gap Notice to Seller, Seller shall have five (5) business days after receipt of the Gap Notice to notify Purchaser in writing whether Seller (aa) will cause, or (bb) elects not to cause, any or all of the objections set forth in the Gap Notice to be removed or otherwise cured prior to Closing. Seller's failure to respond in writing to Purchaser's Gap Notice within such five (5) business day period shall be deemed Seller's election not to cause the removal or other cure of the objections set forth in the Gap Notice. If Seller notifies or is deemed to have notified Purchaser that it elects not to cause the removal or other cure of the objections set forth in the Gap Notice, Purchaser shall have five (5) business days after the expiration of Seller's five (5) business day period to either (1) terminate this Agreement, or (2) waive the objections set forth in Purchaser's Gap Notice and proceed to the Closing.

[REDACTED] The Closing Date (as defined below) shall be extended as necessary to accommodate the time periods set forth in this Section. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall execute and deliver to Purchaser any owner's affidavit reasonably requested by any title company or attorney reviewing title to the Property.

(d) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of all aspects of the Property, including, without limitation, all of the Due Diligence Items, and the results of Purchaser's examinations, inspections, testing, and or investigations of the Property and the Due Diligence Items (collectively, "Purchaser's Due Diligence Investigations"). Purchaser's Due Diligence Investigations may include an examination for the presence or absence of Hazardous Materials (as defined below) on, under or in the Property including, without limitation, the review and approval of any Phase I or Phase II environmental report, geotechnical study, biological study, cultural resource study, wetland study, drainage study and/or plans, improvement plans, building plans, traffic study, water supply assessment study, and crop planting and harvesting schedule which Purchaser may obtain, [REDACTED] during the Due Diligence Period. In the event Purchaser wishes to conduct a Phase II environmental audit report, [REDACTED] Seller agrees to such testing on the Property.

(e) Purchaser's review and approval, in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of reports by consultants, engineers and/or architects selected by Purchaser to inspect the Property.

(f) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of evidence satisfactory to Purchaser and its legal counsel and consultants that the Property and Purchaser's proposed development thereof complies with all

applicable zoning, subdivision, land use, redevelopment, energy, environmental, building and other governmental requirements applicable to the use, maintenance and occupancy of the Property and the proposed development thereof.

(g) Written documentation satisfactory to Purchaser, confirming that all state and local real property and business taxes pertaining to the Property (including, without limitation, all corporate, sales, and withholding taxes) have been paid in full by Seller.

8. Conditions to Closing.

The following conditions are precedent to Purchaser's obligation to acquire the Property and to deliver the balance of the Purchase Price (the "Conditions Precedent"). If any Conditions Precedent are not satisfied as determined by Purchaser in Purchaser's reasonable discretion (except as otherwise provided), Purchaser may elect by written notice to Seller to

(a) This Agreement shall not have terminated pursuant to any other provision hereof, including, without limitation, pursuant to Sections 2 or 9.

(b) Purchaser shall have a fully executed agreement for the sale of power based on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(c) Purchaser shall have determined, in its sole and absolute discretion, that financing can be obtained to purchase the Property and develop a solar power facility thereon in an amount and on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(d) The physical condition of the Property shall be substantially the same on the day of Closing as on the Effective Date, ordinary wear and tear, obsolescence, and loss by casualty excepted (subject to the provisions of Section 13 below), and free and clear of all personal property, motor homes, junk, trash, sheds and similar property; and, as of the day of the Closing, there shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after the Closing could or would materially adversely affect the value of the Property or Purchaser's ability to develop the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the re-designation or other modification of the zoning classification of the Property or any portion thereof, which after the Closing would materially adversely affect the value of the Property or the ability of Purchaser to develop the Property in the manner contemplated by Purchaser.

(e) All Leases and Service Contracts shall be terminated effective on or before the Closing, and Seller shall deliver exclusive possession of the Property to Purchaser and shall convey good and marketable fee simple title to the Property to Purchaser by good and sufficient Special Warranty Deed in the form of Exhibit C attached hereto (the "Deed") free and clear of all liens and encumbrances and subject to no exceptions other than the following:

(i) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent,

(ii) Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Purchaser in writing prior to or as of the Closing, and

(iii) All exceptions to title contained or disclosed in the Preliminary Report and Survey other than Title Objections identified (including objections set forth in any Gap Notice) and not thereafter waived by Purchaser.

(f) The Title Company shall be irrevocably and unconditionally committed to issue to Purchaser, an ALTA extended coverage Owner's policy of title insurance covering the Property, in the full amount of the Purchase Price, subject only to those encumbrances previously approved by Purchaser and containing such endorsements as Purchaser may reasonably request.

(g) All of Seller's representations and warranties contained herein shall be true and correct on the Closing Date.

(h) Seller has delivered into escrow all deliverables required in accordance with Section 10(b) below.

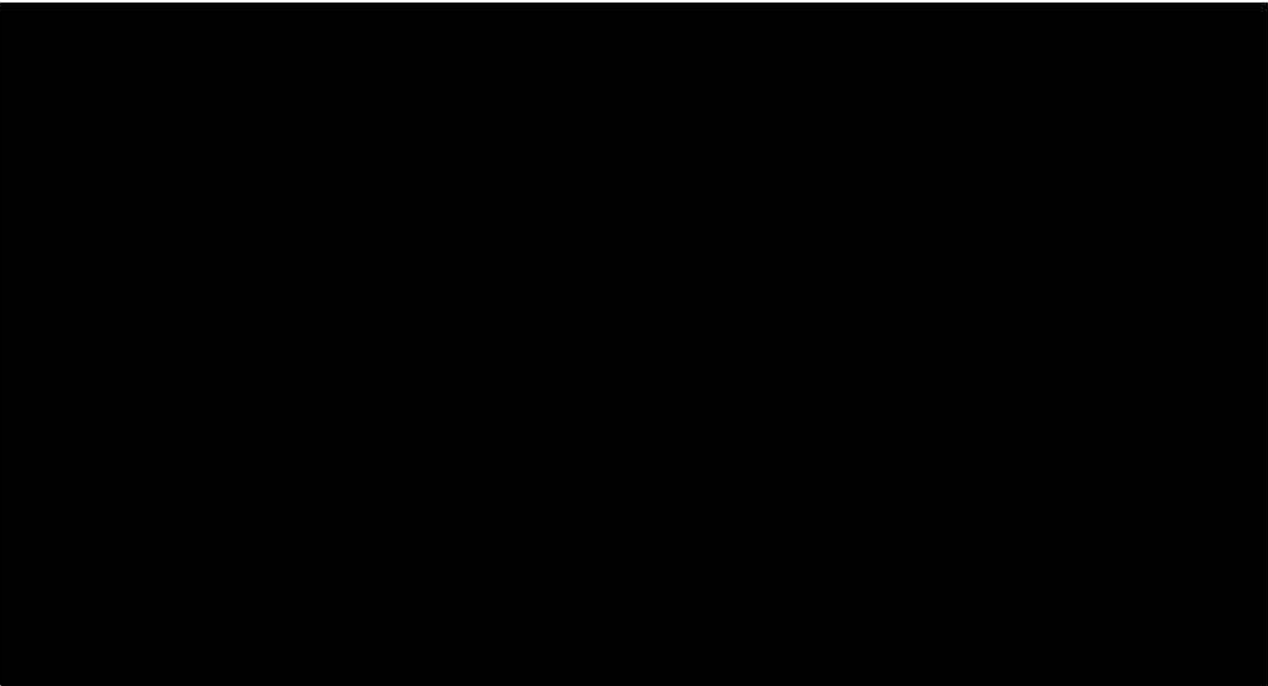
(i) Seller is not otherwise in default of this Agreement.

(j) The Land constitutes a separate legal parcel in accordance with all applicable laws. This legal parcel condition is not subject to waiver by the parties.

9. Remedies.

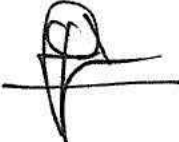
[REDACTED]

[REDACTED]



SELLER INITIALS: W. A. L.

Seller PURCHASER INITIALS: R. A. L.

Purchaser initials: 

10. Closing and Escrow.

(a) The parties shall conduct an escrow Closing pursuant to this Section 10 on a date to be selected by Purchaser, which date shall be specified in Purchaser's notice exercising the Option pursuant to Section 4, [REDACTED] after Purchaser delivers such notice, or on such other date as Purchaser and Seller may agree in writing in their sole and absolute discretion (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser. In the event the Closing does not occur on or before the Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the respective party any items previously delivered by such party to the Title Company. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

(b) At or before the Closing, Seller shall deliver to the Title Company (for delivery to Purchaser upon the Closing) the following:

(i) a duly executed and acknowledged Deed in the form attached hereto as Exhibit C;

(ii) all material documents, agreements and correspondence and items relating to the ownership, operation, maintenance or management of the Property;

(iii) a duly executed bill of sale agreement transferring title to all of Seller's interest in any personal property located on the Property as of Closing in a form reasonably acceptable to Seller and Purchaser (the "Bill of Sale") (provided, however, that neither the delivery by Seller, nor the acceptance by Purchaser, of this Bill of Sale obviates Seller's obligation to deliver the Property free and clear of all personal property at Closing;

(iv) a duly executed assignment and assumption agreement assigning Seller's interest in the Intangible Personal Property in a form reasonably acceptable to Seller and Purchaser (the "Assignment of Intangibles");

(v) evidence that all Service Contracts and Leases have been terminated;

(vi) a certificate, dated as of the date of Closing certifying that the representations and warranties set forth in Section 11 are true and correct as of the Closing Date;

(vii) a certificate of non-foreign status in accordance with the requirements of Internal Revenue Code Section 1445, as amended;

(viii) not used;

(ix) not used; and

(x) any other closing documents reasonably requested by the Title Company or Purchaser, including an owner's affidavit in a form reasonably requested by the Title Company. Purchaser may, in its sole and exclusive discretion, waive compliance on Seller's part under any of the foregoing items by an instrument in writing.

(c) At or before the Closing, Purchaser shall deliver to the Title Company (for delivery to Seller upon the Closing) the following:

(i) the balance of the Purchase Price in cash or other immediately available funds, subject to prorations and adjustments as set forth herein;

(ii) the Assignment of Intangibles duly executed by Purchaser; and

(iii) any customary and/or reasonable closing documents requested by the Title Company.

(d) The following are to be apportioned as of the Closing Date as follows, with Purchaser being deemed to be the owner of the Property during the entire day on which the Closing takes place and being entitled to receive all income of the Property, and being obligated to pay all expenses of the Property, with respect to such day:

(i) Utility Charges. Seller shall be responsible for the cost of all utilities used, if any, prior to the Closing Date.

(ii) Other Apportionments; Closing Costs. Property taxes shall be apportioned as of the Closing Date based on the latest available tax bill.

All other costs and charges of the escrow for the sale not otherwise provided for in this Section 10(d)(ii) or elsewhere in this Agreement shall be allocated in accordance with the applicable closing customs for the county in which the Property is located, as determined by the Title Company. If any of the aforesaid pro-rations cannot be calculated accurately as of the Closing Date, then they shall be calculated as soon after the Closing as feasible. Either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party.

(iii) Survival. The provisions of this Section 10(d) shall survive the Closing

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has not, and as of the Closing, Seller shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not, and as of the Closing shall not be, a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement (i) has been duly authorized, executed and delivered by Seller, and (ii) does not, and as of the Closing shall not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) There is no litigation pending or, to Seller's Actual Knowledge (defined below), threatened with respect to the Property or the transactions contemplated hereby or that would impair Seller's ability to perform under this Agreement.

(e) To Seller's Actual Knowledge and belief, there are no violations of any applicable environmental, zoning or land use law, or any other applicable local, state or federal law or regulation relating to the Property, including, without limitation, the Americans with Disabilities Act of 1990 and Seller is not aware of any proposed or pending changes in zoning or proposed relocation, reconfiguration or other change with respect to any street or road affecting the Property, if any.

(f) To Seller's Actual Knowledge, there are no condemnation proceedings pending or threatened that would result in the taking of any portion of the Property. Seller has not received any written notice of any special assessment proceedings affecting the Property that are not disclosed on the Preliminary Report.

(g) The parties comprising Seller under this Agreement are the sole owners of the Property and Seller holds good and marketable fee simple title to the Property according to laws of the State where the Property is located.

(h) To Seller's Actual Knowledge, the Land constitutes a separate legal parcel (or separate legal parcels) in accordance with all applicable laws.

(i) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(j) To Seller's Actual Knowledge, the Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement are, or when delivered will be, all of the relevant documents, materials, reports and other items pertaining to the condition and operation of the Property, will be true, correct and complete copies, and will be in full force and effect, without default by any party and without any right of set-off except as disclosed in writing at the time of such delivery.

(k) Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller.

(l) Hazardous Materials have not at any time been generated, used or stored on, or transported to or from, or released or disposed of on the Property in violation of environmental laws and restrictions, and Seller has not used Hazardous Materials on the Property for purposes other than (i) as necessary to operate and maintain the Property and (ii) in compliance with all environmental laws and restrictions. To the Actual Knowledge of Seller, there are not now and never have been any underground storage tanks located on or under the Property and there is no asbestos contained in, forming part of, or

contaminating any part of the Property. For the purposes hereof, "**Hazardous Materials**" shall mean (i) any petroleum or petroleum distillates and products, flammable explosives, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls in any concentrations, and radon gas; (ii) any chemicals, materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any environmental laws and restrictions; and (iii) any other chemical, material, substance, or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority.

All representations and warranties made by Seller herein or made in writing pursuant to this Agreement shall be deemed to be material, shall be deemed remade as of the Closing and shall survive the execution and delivery of this Agreement and the Closing for [REDACTED] "**Actual Knowledge**" shall mean and be limited to actual (and not constructive) current knowledge, without duty of inquiry or investigation.

Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a duly organized and validly existing limited liability company in good standing under the laws of the State in which it was formed; this Agreement and all documents executed by Purchaser which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Purchaser is subject.

(b) Purchaser has not, and as of the Closing, Purchaser shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Purchaser's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

All representations and warranties made by Purchaser herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing for a period of [REDACTED]

12. Condition of Improvements and Risk of Loss.

(a) Seller agrees that upon delivery of the Deed, the Property (including all Improvements) shall be in the same condition as they are on the Effective Date of this Agreement, reasonable wear and tear, obsolescence and loss by casualty excepted.

(b) In the event of any damage to the Property before Closing, such damage may be repaired by and at the cost of Seller prior to the Closing, and if not so repaired, Purchaser may elect to either (i) if such damage materially impacts Purchaser's planned use of the Property, [REDACTED]

(c) Purchaser shall assume all risk of loss with respect to the Property at 5:00 p.m. Pacific Standard Time on the Closing Date.

13. Access; Indemnity; Possession.

(a) Access. Commencing on the Effective Date and through the Closing Date or the earlier termination of this Agreement, Seller shall, and shall cause Seller's tenants, if any, to afford authorized representatives of Purchaser reasonable access to the Property for purposes of satisfying Purchaser with respect to the representations, warranties and covenants of Seller contained herein and with respect to satisfaction of any Diligence Period Condition or any Condition Precedent, including, without limitation, to conduct Purchaser's Due Diligence Investigations, measurement of meteorological characteristics of the Property which may require the installation of a meteorological station, conducting of geotechnical tests and borings and performing a Phase I or Phase II environmental site assessment of the soils, waters and improvements on the Property. All installations, tests or inspections shall be at Purchaser's expense, [REDACTED]

[REDACTED]. During the Option Term, at Purchaser's option and with prior notice to Seller, Seller shall (and shall cause Seller's tenants, if any, to) allow Purchaser access to the Property for purposes of controlling the formation of wetlands or wildlife habitat. If this Agreement is terminated for a reason other than a default under this Agreement by Seller, Purchaser shall repair the damage caused by Purchaser's entry onto and/or inspections of the Property; provided, however, the foregoing shall not require Purchaser to repair or remediate any conditions that are merely discovered by Purchaser. [REDACTED]

[REDACTED] g. [REDACTED] case, [REDACTED]

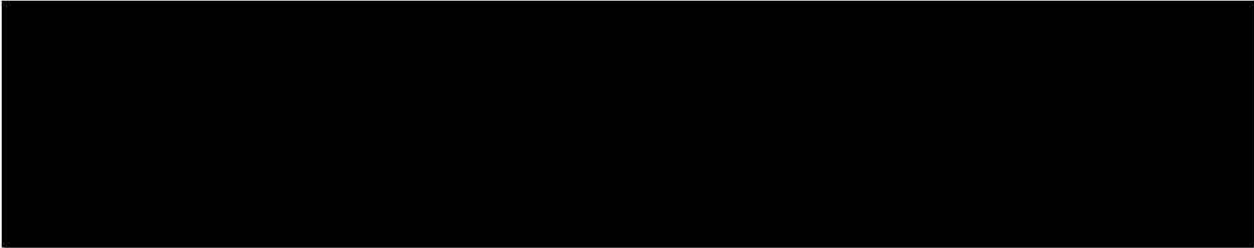
(b) Seller's Continued Use of Property. During the Option Term, subject to Purchaser's rights set forth in this Agreement, Seller may continue to use or lease the Property. All existing Leases shall be terminated by Seller [REDACTED] effective prior to the Closing and Seller shall deliver possession of the Property free and clear of any interests or rights of tenants, licensees, or other occupants in possession. Seller shall (and shall cause Seller's tenants, if any, to) remove all personal property, motor homes, junk, trash, sheds and similar property from the Property on or before the date that is seven (7) days prior to the Closing Date. [REDACTED]

[REDACTED] Following the Effective Date, Seller shall not renew any existing Lease, enter into any new lease for all or any part of the Property, or agree to or allow any other lien, encumbrance, easement or other exception or matter to affect the Property, title thereto or the Survey (collectively, "New Matter"), without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that if such New Matter would remain in effect after Closing, such consent may be withheld in Purchaser's sole and absolute discretion.

(c) Possession. Possession of the Property shall be delivered to Purchaser at 5:00 p.m. Pacific Standard Time on the Closing Date; [REDACTED]

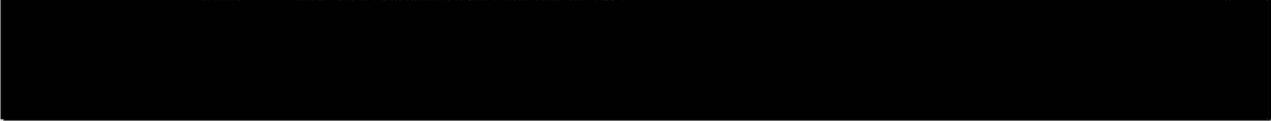
[REDACTED]

[REDACTED]



14. Seller Covenants.

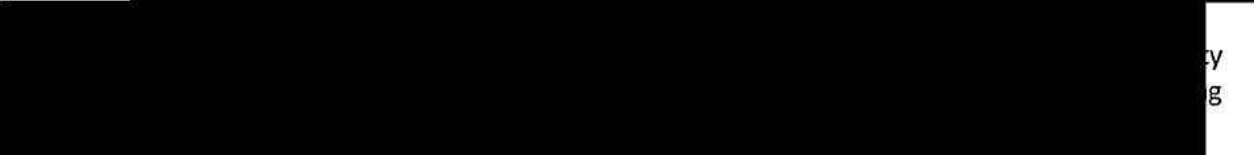
(a) At the time of the Closing, [REDACTED]



(b) Between the Effective Date and the Closing, to the extent Seller has any knowledge thereof, Seller shall promptly notify Purchaser of the following items relating to the Property: (i) any condemnation, environmental, zoning or other land-use regulation proceedings; (ii) any notices of violations of any laws; (iii) any litigation relating to the Property or that arises out of the ownership of the Property or affects Seller's ability to perform under this Agreement; and (iv) the termination, modification or default under any Leases or Service Contracts.

(c) Through the Closing Date, Seller shall maintain or cause to be maintained, at [REDACTED] all policies of insurance currently in effect with respect to the Property (or comparable replacements thereof) and Seller shall maintain the Property in the same condition existing as of the Effective Date, reasonable wear and tear excepted.

(d) Seller shall also deliver to Purchaser copies of any bills for real estate taxes and personal property taxes and copies of any notices pertaining to real estate taxes or assessments applicable to the Property that are received by Seller after the Effective Date, even if received after Closing. [REDACTED]



(e) Seller shall remove the Property from the market, if listed, and shall not market the Property for sale during the term of this Agreement.

(f) Purchaser shall have the right, at Purchaser's expense, to apply for, change and/or obtain zoning changes, general plan amendments, land use entitlements, planning approvals, permits, tax classifications, , property tax exemptions, subdivision and/or lot line adjustment approvals affecting the Property consistent with Purchaser's intended use of the Property. Seller shall cooperate with Purchaser in Purchaser's efforts to obtain such approvals by executing such

documents and taking such actions as are reasonably necessary to obtain such approvals. Seller agrees that it shall not contest, challenge or publicly or privately dispute, verbally or in writing, Purchaser's efforts to obtain any such approvals.

15. Miscellaneous.

(a) Binding on Successors. This Agreement shall be binding not only upon the parties but also upon their respective heirs, executors, personal representatives, assigns, and other successors in interest.

(b) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one (1) business day after being deposited with FedEx or another reliable overnight courier service, with receipt acknowledgment requested, (iii) upon receipt if transmitted by facsimile telecopy, with a copy sent on the same day by one of the other permitted methods of delivery, or (iii) upon receipt or refused delivery deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

IF TO SELLER:

Robert A. List and Dottie A. List



Phone [_____]

Fax No.: [_____]

E-mail (for informational purposes only): [_____]

IF TO PURCHASER:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

Phone: [_____]

Fax No.: [_____]

Email: [_____]

WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO:

Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Attn: John Livingston

Phone: [_____]

Fax No.: [_____]

Email: [_____]

or such other address as either party may from time to time specify in writing to the other.

(c) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any broker or finder makes a claim for a commission or finder's fee based upon any contact, dealings or communication, the party whose conduct is the basis for the broker or finder making its claim shall indemnify, defend and hold harmless the other party against and from any commission, fee, liability, damage, cost and expense, including without limitation attorneys' fees, arising out of or resulting from any such claim. The provisions of this Section 16(d) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement, in each case, [REDACTED]

(d) Recording and Subordination. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located (the "Memorandum"). If this Agreement is terminated, Purchaser agrees to execute and record a termination of the Memorandum in the form attached hereto as Exhibit D-1. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall obtain from the holder of any mortgage or deed of trust liens or any other monetary lien encumbering the Property a reasonable subordination agreement whereby the holder of such lien agrees that its lien is subordinate to Purchaser's option.

(e) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

(g) Merger of Prior Agreements. This Agreement and the exhibits and schedules hereto, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

(h) Time of the Essence. Time is of the essence of this Agreement; provided, however, should the date for payment or performance required under this Agreement fall on a non-business day (i.e., Saturday, Sunday or any other day on which national banks in California are not open for business), then the date required for payment or performance under this Agreement shall be extended to the first business day following the non-business day on which such payment or performance was required.

(i) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(j) Confidentiality. Seller agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated hereby; provided, however, that Seller, its agents and representatives may disclose such information and data (a) to its accountants, attorneys, and other advisors in connection with the transactions contemplated by this Agreement (collectively "Representatives") to the extent that such Representatives reasonably need to know such information and data in order to assist, and perform services on behalf of, Seller, but Seller shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; and (c) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. The provisions of this Section 16(k) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement. Notwithstanding the provisions of this Section 16(k), the recording of the memorandum of this Agreement as contemplated by Section 16(e) is expressly permitted.

(k) Attorneys' Fees. The prevailing party in any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Agreement or for the interpretation of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

(l) Counterparts and Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Signatures required under this Agreement may be transmitted by facsimile or electronic mail and, once received by the party to the Agreement to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By:  _____

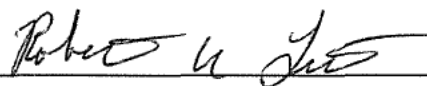
Name: MORGEN FEHR

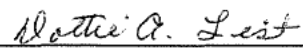
Its: HUMMINGBIRD

Date: 7.16, 2020

SELLER:

Robert A. List and Dottie A. List

 _____
Robert A. List

 _____
Dottie A. List

Date: 7-5-20, 2020

SPOUSAL CONSENT

The undersigned, the spouse of Robert A. List, a married individual, hereby joins in and consents to the terms of this Agreement. The undersigned's signature below shall not imply that such spouse has any interest in the Property, but evidences only such spouse's agreement to and acknowledgment that if and to the extent that said spouse has any right, title and interest in the Property, said spouse ratifies, consents to, and joins in the execution of this Agreement and all of the provisions hereof as if named herein as a "Seller."

By: Cynthia G. List

Print Name: Cynthia G. List

Dated: 7-5-20

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Property located in Fleming County, Kentucky, more particularly described as follows:

[The Seller and Purchaser agree to add a legal description of the Land as soon as it has been prepared.]

[TO BE ATTACHED]

EXHIBIT B

**TERMINATION AGREEMENT
OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

APN 058-00-00-024.00, FLEMING COUNTY, KENTUCKY

THIS TERMINATION AGREEMENT (this "Termination Agreement"), dated as of [____], 2020 (the "Termination Date"), is entered into by and between **Robert A. List, a married man and Dottie A. List**, ("Seller"), and **Hummingbird Solar LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to that certain Option Agreement for the Purchase and Sale of Real Property, dated as of [____], 2020 (the "Option Agreement"), pursuant to which Seller granted Purchaser an exclusive and irrevocable option to purchase from Seller certain real property located in Fleming County, Kentucky (APN: 058-00-00-024.00) on the terms and conditions set forth in the Option Agreement.

B. Pursuant to Section 2(b) of the Option Agreement, Purchaser has the right to terminate the Option Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

C. Purchaser has elected to terminate the Option Agreement pursuant to Section 2(b) thereof, and Purchaser and Seller desire to enter into this Termination Agreement in order to evidence such termination and to release one another from their respective obligations thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereby agree as follows:

1. Defined Terms. Initially capitalized terms used but not defined herein have the meanings set forth in the Option Agreement.

2. Termination of the Option Agreement. Purchaser has terminated the Option Agreement by notice dated [____], _____, and Purchaser and Seller hereby agree that the Option Agreement has terminated without liability to either party and is of no further force or effect.

3. Release of Liability. Except as otherwise provided herein, Purchaser and Seller are fully and unconditionally released and discharged from their respective obligations under the Option Agreement, whether arising before or after the termination and including with respect to the payment of any consideration thereunder.

4. Surrender of Property. Purchaser acknowledges its release and surrender to Seller of all of any right, title and interest in and to the Property and hereby agrees to vacate the Property.

5. Successors and Assigns. This Termination Agreement shall be binding upon and shall inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

6. Counterparts. This Termination Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties.

7. Governing Law. This Termination Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Georgia.

8. Documentation. Each party shall execute and deliver such additional instruments, agreements, and documents and take such other actions as the other party may reasonably require in order to carry out the intent and purpose of this Termination Agreement.

9. Severability. If any term or provision of this Termination Agreement shall be held invalid or unenforceable, the remainder of this Termination Agreement shall not be affected.

10. No Third Party Beneficiaries. This Termination Agreement is solely for the benefit of Purchaser and Seller and their successors and permitted assigns and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Termination Agreement to be executed and delivered as of the day and year first written above.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: _____
Name: _____
Title: _____

SELLER:

By: _____
Robert A. List

By: _____
Dottie A. List

SPOUSAL CONSENT

The undersigned, the spouse of Robert A. List, a married individual, hereby joins in and consents to the terms of this Agreement. The undersigned's signature below shall not imply that such spouse has any interest in the Property, but evidences only such spouse's agreement to and acknowledgment that if and to the extent that said spouse has any right, title and interest in the Property, said spouse ratifies, consents to, and joins in the execution of this Agreement and all of the provisions hereof as if named herein as a "Seller."

By: _____

Print Name: Cynthia G. List

Dated: _____

EXHIBIT C

Form of Special Warranty Deed

RECORDING REQUESTED BY and
WHEN RECORDED RETURN IT
AND ALL TAX STATEMENTS TO:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made and entered into as of the ____ day of _____, _____, between (a) [_____] ("Grantor") and having and address of _____, and (b) **HUMMINGBRID SOLAR LLC**, a Kentucky limited liability company ("Grantee") and having an address of _____, which is the in care of address for Grantee to which tax bills may be sent.

WITNESSETH

For a total consideration of \$ _____, the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple with covenant of Special Warranty certain real property located in Fleming County, Kentucky and more particularly described on EXHIBIT A attached hereto and made a part hereof together with all appurtenances thereto (the "Property").

Grantor covenants (a) lawful seisin of the Property (b) full right and power to convey same, and (c) that the Property is free and clear of all liens and encumbrances by or in favor of any party claiming by, through or under Grantor except liens for real property taxes and assessments due and payable in _____ and thereafter, which Grantee assumes and agrees to pay. This conveyance is made subject to all (i) easements, restrictions and stipulations of record, and (ii) governmental laws, ordinances and regulations affecting the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Special Warranty Deed, certify that the consideration recited above is the full consideration paid by Grantee to Grantor for the Property.

[Signature Page Follows]

Exhibit C

IN WITNESS WHEREOF, Grantor and Grantee duly executed this Deed as of the date first set forth above.

GRANTOR:

[]

GRANTOR:

[]

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Special Warranty Deed, including the consideration certificate contained therein, was sworn to and acknowledged before me on _____, ____ by [].

Notary Public

My Commission Expires: _____

SPOUSAL CONSENT

The undersigned, the spouse of Robert A. List, a married individual, hereby joins in and consents to the terms of this Agreement. The undersigned's signature below shall not imply that such spouse has any interest in the Property, but evidences only such spouse's agreement to and acknowledgment that if and to the extent that said spouse has any right, title and interest in the Property, said spouse ratifies, consents to, and joins in the execution of this Agreement and all of the provisions hereof as if named herein as a "Grantor."

By: _____

Print Name: Cynthia G. List

Dated: _____

Exhibit C

GRANTEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing consideration certificate was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar, LLC, a Kentucky limited liability company, on behalf of such company

Notary Public _____
My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

Exhibit C

Fleming, KY
Hummingbird

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

Property located in Fleming County, Kentucky, more particularly described as follows:

[TO BE ATTACHED]

Exhibit C

EXHIBIT D

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY and
WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF OPTION AGREEMENT

This MEMORANDUM OF OPTION AGREEMENT (this "Memorandum") is dated and made as of [_____], 2020, by and between **ROBERT A. LIST a married man and DOTTIE A. LIST, an unmarried woman** ("Owner"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Optionee").

WHEREAS:

A. Owner owns the real property more particularly described on **Exhibit A** attached hereto, which by this reference is incorporated herein (the "Property").

B. Owner and Optionee have entered into that certain Option Agreement for the Purchase and Sale of Real Property dated as of [_____], 2020 (the "Option Agreement"), which is incorporated herein by reference as though fully set forth herein, to provide an option in favor of Optionee to purchase all of the Property according to the terms and conditions of the Option Agreement.

C. The Effective Date under the Option Agreement is [_____], 2020. The Option Term is effective through [REDACTED].

D. Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to purchase all of the Property on the terms and conditions set forth in the Option Agreement. All of the

terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Option Agreement. Should there be any inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall prevail.

This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date set forth above.

Signed, sealed and delivered in
the presence of:

Owner:

Unofficial Witness

By: _____
Robert A. List

Notary Public

By: _____
Dottie A. List

My commission expires:

[NOTARIAL SEAL]

Signed, sealed and delivered in
the presence of:

Optionee:

Hummingbird Solar LLC,
a Kentucky limited liability company

Unofficial Witness

By: _____

Notary Public

Name: _____

My commission expires:

Title: _____

[NOTARIAL SEAL]

SPOUSAL CONSENT

The undersigned, the spouse of Robert A. List, a married individual, hereby joins in and consents to the terms of this Agreement. The undersigned's signature below shall not imply that such spouse has any interest in the Property, but evidences only such spouse's agreement to and acknowledgment that if and to the extent that said spouse has any right, title and interest in the Property, said spouse ratifies, consents to, and joins in the execution of this Agreement and all of the provisions hereof as if named herein as a "Owner."

By: _____

Print Name: Cynthia G. List

Dated: _____

EXHIBIT A TO MEMORANDUM OF OPTION AGREEMENT

LEGAL DESCRIPTION

[Owner and Optionee agree to add a legal description of the Land as soon as it has been prepared.]

Fleming, KY
Hummingbird

Robert and Dottie List

EXHIBIT D-1

Recording requested by
and when recorded mail to:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TERMINATION OF [MEMORANDUM OF OPTION AGREEMENT]

THIS TERMINATION OF MEMORANDUM OF OPTION AGREEMENT ("Termination") is made as of the ____ day of ____, 20__ by **Hummingbird Solar LLC**, a Kentucky limited liability company ("Grantor").

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby remises, releases and forever quitclaims unto [_____], all of Grantor's rights and interests in the real property more particularly described in Exhibit A attached hereto, which Grantor may have acquired pursuant to that certain [**Option Agreement for the Right to Purchase Property**], dated as of [____], a memorandum of which was recorded on [____] as Instrument Number [____], in Volume [____], Page [____], in the Official Records of [____] County, [____], *[as affected by (Amendment to Option to Land Lease and Land Lease Agreement/Amendment to Option Agreement for the Purchase and Sale of Real Property) dated _____, an amendment to memorandum of which was recorded on [] as Instrument Number [], in Volume [], Page [], in the Official Records of _____ County, STATE]*

IN WITNESS WHEREOF, Grantor has executed this Termination as of the date first above written.

[SIGNATURE PAGE FOLLOWS]

Fleming, KY
Hummingbird

Signed, sealed and delivered in
the presence of:

GRANTOR:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

Unofficial Witness

By: _____

Notary Public

Name: _____

My commission expires:

Title: _____

[NOTARIAL SEAL]

EXHIBIT A
to Termination of Memorandum of Option Agreement

Legal Description

**OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

**APN NO. 058-00-00-015.00
FLEMING COUNTY, KENTUCKY**

THIS OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made and entered into as of this 5 day of October, 2020 (such date being the date this Agreement is last signed and executed, the "Effective Date"), by and between **ROBERT A. LIST and CYNTHIA G. LIST, his wife** ("Seller"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Seller is the owner of certain real property in Fleming County, in the state of Kentucky, containing approximately 229.29 acres of land, commonly identified as APN 058-00-00-015.00 (the "Land"), as more particularly described on **Exhibit A** attached hereto and incorporated herein.

B. As used in this Agreement, the term the "**Property**" shall mean, collectively: (a) the Land, together with all of Seller's right, title and interest in all rights, easements, rights-of-way and other interests appurtenant thereto including, but not limited to, any streets or other public ways adjacent to such Land and any development rights, water rights or mineral rights owned by, or leased to, Seller; (b) all improvements located on such Land, if any (all such improvements being collectively referred to herein as the "**Improvements**"); and (c) all trademarks, trade names, permits, approvals, and entitlements and other intangible property used in connection with the foregoing, including, without limitation, all of Seller's right, title and interest in any and all warranties and guaranties relating to the Property (collectively, the "**Intangible Personal Property**").

C. Seller desires to grant to Purchaser an option to purchase the Property on the terms set forth herein. Seller acknowledges that upon acquisition of the Property, Purchaser shall be free to use and dispose of such Property in any manner Purchaser deems appropriate and that Purchaser may sell such Property for any price Purchaser deems appropriate to any subsequent buyer.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. **Grant of Option to Purchase.**

(a) **Option to Purchase.** Seller hereby grants to Purchaser an exclusive and irrevocable option (the "**Option**") to purchase from Seller and, if Purchaser exercises the Option, agrees to sell to Purchaser, all of the Property, subject to and upon the terms, covenants and conditions set forth herein.

2. **Option Term.**

(a) Term. The term of the Option shall commence on the Effective Date and shall expire on the date that is [REDACTED] (the "Option Term"). If Purchaser does not exercise the Option or terminate this Agreement prior to the expiration of the Option Term, Purchaser shall be deemed to have terminated this Agreement, and the parties shall both execute a writing confirming such termination.

(b) Purchaser's Right to Terminate. Notwithstanding anything in this Agreement to the contrary, Purchaser shall have the right to terminate this Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

[REDACTED]

Upon any termination of this Agreement, Purchaser and Seller agree to document such termination by executing and delivering to each other a Termination Agreement in the form attached hereto as Exhibit B and incorporated herein.

3. Option Consideration.

(a) Signing Consideration. Within ten (10) business days after the Effective Date, Purchaser shall pay to Seller the amount of [REDACTED] (the "Signing Option Consideration").

[REDACTED]

in Section 9 (or as elsewhere expressly provided in this Agreement). The parties acknowledge and agree that the Signing Option Consideration is adequate consideration paid by Purchaser to Seller for entering into this Agreement and the right and ability of Purchaser to commence its due diligence of the Property and evaluate the transaction contemplated by this Agreement.

(b) [REDACTED]

<u>Amount of Option Consideration</u>	<u>Payment Date</u>
---------------------------------------	---------------------

(c) Account Information. All payments made by Purchaser under this Section 3 shall be made by wire transfer to the following bank account at Seller's financial institution:

[Name of Payee: _____, _____% of Option Consideration payment, to the following bank account:]

Name of Bank: [_____]
Bank Address: [_____]
Bank Telephone No: [_____]
ABA No: [_____]
For credit to Account No. [_____]
Account Name: [_____]

[Name of Payee: _____, _____% of Option Consideration payment, to the following bank account:]

Name of Bank: [_____]
Bank Address: [_____]
Bank Telephone No: [_____]
ABA No: [_____]
For credit to Account No. [_____]
Account Name: [_____]

Seller expressly authorizes and approves the payment direction to the Seller as forth above and waives any claims against Purchaser in the event that payments are made in conformance with the terms herein. _____

_____. Payment shall be deemed made and paid upon issuance of a wire transfer confirmation number for the transfer of such funds to Seller's account from Purchaser's financial institution.

(d) Termination for Failure to Pay. If Purchaser fails to make a payment of Option Consideration _____

_____. If this Agreement is so deemed terminated, or is otherwise terminated as provided herein, Purchaser shall have no further obligation to pay any Option Consideration that has a payment date that is on or following the date of such termination.

4. Exercise of Option.

The Option may be exercised upon Purchaser's written notice to Seller of its election to exercise the Option ("**Option Notice**") within the Option Term specified in Section 2. Such Option Notice shall be deemed timely if it is transmitted by facsimile, delivered or mailed, certified mail, return receipt requested, or via a nationally recognized overnight delivery service within the time period specified in Section 2. Purchaser's Option Notice shall specify the Purchase Price (defined below) for the Property. In the event that Purchaser timely exercises the Option, Seller shall sell to Purchaser and Purchaser shall buy from Seller the Property, on the terms and conditions established in this Agreement.

5. Purchase Price.

(a) The "Purchase Price" for the Property shall be equal to [REDACTED]

(b) The Purchase Price shall be paid at the closing of the sale of the Property to Purchaser (the "Closing") as follows:

(i) [REDACTED]

(ii) The balance of the Purchase Price, plus or minus prorations and other adjustments hereunder, shall be paid to Seller in cash or other immediately available funds at the Closing.

6. Due Diligence and Time for Satisfaction of Conditions.

Purchaser shall have the right to access the Property and to commence due diligence with respect to the Property immediately following the Effective Date, and the due diligence period ("Due Diligence Period") shall expire at 5:00 p.m. Pacific Standard Time on the last day of the Option Term. Within five (5) days after the Effective Date, Seller shall deliver to Purchaser or make available to Purchaser and its employees, representatives, counsel and consultants access to all of its books, records and files relating to the Property in Seller's possession or control, including, without limitation, all of the items set forth in Section 7 below (collectively, the "Due Diligence Items").

7. Diligence Period Conditions.

The following shall be conditions precedent to Purchaser's obligation to purchase the Property (the "Diligence Period Conditions"):

(a) Purchaser's review and approval of written documentation satisfactory to Purchaser, confirming that Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and that the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller. Seller shall deliver such written documentation to Purchaser within five (5) days after the Effective Date.

(b) Purchaser's review and approval of the Due Diligence Items, including, but not limited to, any and all tenant leases (including oil, gas or mineral rights), if any, and all amendments thereto (collectively, the "Leases"); all contracts pertaining to the use and operation of the Property, if any (collectively, the "Service Contracts"); permits and entitlements; any materials or reports concerning the physical condition of the Property; any records of the use of Hazardous Materials (defined below) on the Property; and such other documents and information reasonably requested by Purchaser, including, but not limited to, any existing Phase I and/or II Environmental Site Assessment, geotechnical studies, biological studies, cultural resource studies, wetland studies, drainage studies and/or plans, improvement plans, building plans, traffic studies, water supply

assessment studies, and crop planting and harvesting schedules, if any. All Leases and Service Contracts shall be terminated by Seller [REDACTED] and expense effective prior to the Closing.

(c) Purchaser's review and approval of the condition of title to the Property. Purchaser shall obtain a current preliminary title report or a commitment for title insurance with respect to all of the Land, issued by Old Republic Title Insurance Company or a national title insurance company selected by Purchaser in its sole discretion (the "**Title Company**"), accompanied by copies of all documents referred to in the report or commitment (collectively, the "**Preliminary Report**"). Seller shall deliver to Purchaser [REDACTED] within five (5) days after the Effective Date, the following:

(i) copies of all existing and proposed easements, covenants, restrictions, agreements or other documents which affect title to the Property that are actually known by Seller and are not recorded (and, within five (5) days after Purchaser's delivery to Seller of a copy of the Preliminary Report, any such documents that are actually known by Seller that may be recorded, but that are not disclosed by the Preliminary Report) (collectively, "**Undisclosed Encumbrances**"), including but not limited to any existing above ground or below ground irrigation pipes, water wells, pumps, gas lines, and electrical service lines serving the Property (and if no such documents exist, a written explanation of or map showing the existence of any such items); and

(ii) the most recent survey of the Property, if available. Purchaser shall have the right, [REDACTED] to obtain a new survey of the Property and/or an update of any survey provided by Seller. Any surveys provided by Seller, together with any new or updated survey obtained by Purchaser, are collectively referred to herein as the "**Survey**".

Purchaser shall have until [REDACTED] to notify Seller in writing of any objections (the "**Title Objections**") with respect to the Preliminary Report, Undisclosed Encumbrances and the Survey based on its review thereof. Seller shall have five (5) business days after receipt of the Title Objections to notify Purchaser in writing that Seller (a) will cause, or (b) elects not to cause, any or all Title Objections disclosed therein to be removed or otherwise cured prior to Closing. Seller's failure to notify Purchaser within such five (5) business day period as to any Title Objections shall be deemed an election by Seller not to remove or otherwise cure such Title Objections. If Seller notifies or is deemed to have notified Purchaser that Seller will not remove or otherwise cure any or all of the Title Objections, Purchaser shall have until the end of the Due Diligence Period to (i) terminate this Agreement, or (ii) waive such Title Objections (failure of Purchaser to provide Seller notice of either (i) or (ii) above shall be deemed a waiver by Purchaser of such Title Objections). [REDACTED]

[REDACTED] Purchaser may additionally, at any time prior to the Closing, notify Seller in writing (the "**Gap Notice**") of Purchaser's objection to any title exceptions or Survey matters not created by Purchaser or with Purchaser's prior written consent (A) raised by the Title Company or otherwise disclosed to Purchaser between the

expiration of the Due Diligence Period and the Closing and (B) not disclosed by the Title Company or otherwise known to Purchaser prior to the expiration of the Due Diligence Period (the "New Title Matters"). If Purchaser sends a Gap Notice to Seller, Seller shall have five (5) business days after receipt of the Gap Notice to notify Purchaser in writing whether Seller (aa) will cause, or (bb) elects not to cause, any or all of the objections set forth in the Gap Notice to be removed or otherwise cured prior to Closing. Seller's failure to respond in writing to Purchaser's Gap Notice within such five (5) business day period shall be deemed Seller's election not to cause the removal or other cure of the objections set forth in the Gap Notice. If Seller notifies or is deemed to have notified Purchaser that it elects not to cause the removal or other cure of the objections set forth in the Gap Notice, Purchaser shall have five (5) business days after the expiration of Seller's five (5) business day period to either (1) terminate this Agreement, or (2) waive the objections set forth in Purchaser's Gap Notice and proceed to the Closing.

The Closing Date (as defined below) shall be extended as necessary to accommodate the time periods set forth in this Section. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall execute and deliver to Purchaser any owner's affidavit reasonably requested by any title company or attorney reviewing title to the Property.

(d) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of all aspects of the Property, including, without limitation, all of the Due Diligence Items, and the results of Purchaser's examinations, inspections, testing, and or investigations of the Property and the Due Diligence Items (collectively, "Purchaser's Due Diligence Investigations"). Purchaser's Due Diligence Investigations may include an examination for the presence or absence of Hazardous Materials (as defined below) on, under or in the Property including, without limitation, the review and approval of any Phase I or Phase II environmental report, geotechnical study, biological study, cultural resource study, wetland study, drainage study and/or plans, improvement plans, building plans, traffic study, water supply assessment study, and crop planting and harvesting schedule which Purchaser may obtain, during the Due Diligence Period. In the event Purchaser wishes to conduct a Phase II environmental audit report,

Seller agrees to such testing on the Property.

(e) Purchaser's review and approval, in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of reports by consultants, engineers and/or architects selected by Purchaser to inspect the Property.

(f) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of evidence satisfactory to Purchaser and its legal counsel and consultants that the Property and Purchaser's proposed development thereof complies with all applicable zoning, subdivision, land use, redevelopment, energy, environmental, building and other governmental requirements applicable to the use, maintenance and occupancy of the Property and the proposed development thereof.

(g) Written documentation satisfactory to Purchaser, confirming that all state and local real property and business taxes pertaining to the Property (including, without limitation, all corporate, sales, and withholding taxes) have been paid in full by Seller.

8. Conditions to Closing.

The following conditions are precedent to Purchaser's obligation to acquire the Property and to deliver the balance of the Purchase Price (the "Conditions Precedent"). If any Conditions Precedent are not satisfied as determined by Purchaser in Purchaser's reasonable discretion (except as otherwise provided),

(a) This Agreement shall not have terminated pursuant to any other provision hereof, including, without limitation, pursuant to Sections 2 or 9.

(b) Purchaser shall have a fully executed agreement for the sale of power based on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(c) Purchaser shall have determined, in its sole and absolute discretion, that financing can be obtained to purchase the Property and develop a solar power facility thereon in an amount and on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(d) The physical condition of the Property shall be substantially the same on the day of Closing as on the Effective Date, ordinary wear and tear, obsolescence, and loss by casualty excepted (subject to the provisions of Section 13 below), and free and clear of all personal property, motor homes, junk, trash, sheds and similar property; and, as of the day of the Closing, there shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after the Closing could or would materially adversely affect the value of the Property or Purchaser's ability to develop the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the re-designation or other modification of the zoning classification of the Property or any portion thereof, which after the Closing would materially adversely affect the value of the Property or the ability of Purchaser to develop the Property in the manner contemplated by Purchaser.

(e) All Leases and Service Contracts shall be terminated effective on or before the Closing, and Seller shall deliver exclusive possession of the Property to Purchaser and shall convey good and marketable fee simple title to the Property to Purchaser by good and sufficient Special Warranty Deed in the form of Exhibit C attached hereto (the "Deed") free and clear of all liens and encumbrances and subject to no exceptions other than the following:

(i) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent,

(ii) Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Purchaser in writing prior to or as of the Closing, and

(iii) All exceptions to title contained or disclosed in the Preliminary Report and Survey other than Title Objections identified (including objections set forth in any Gap Notice) and not thereafter waived by Purchaser.

(f) The Title Company shall be irrevocably and unconditionally committed to issue to Purchaser, an ALTA extended coverage Owner's policy of title insurance covering the Property, in the full amount of the Purchase Price, subject only to those encumbrances previously approved by Purchaser and containing such endorsements as Purchaser may reasonably request.

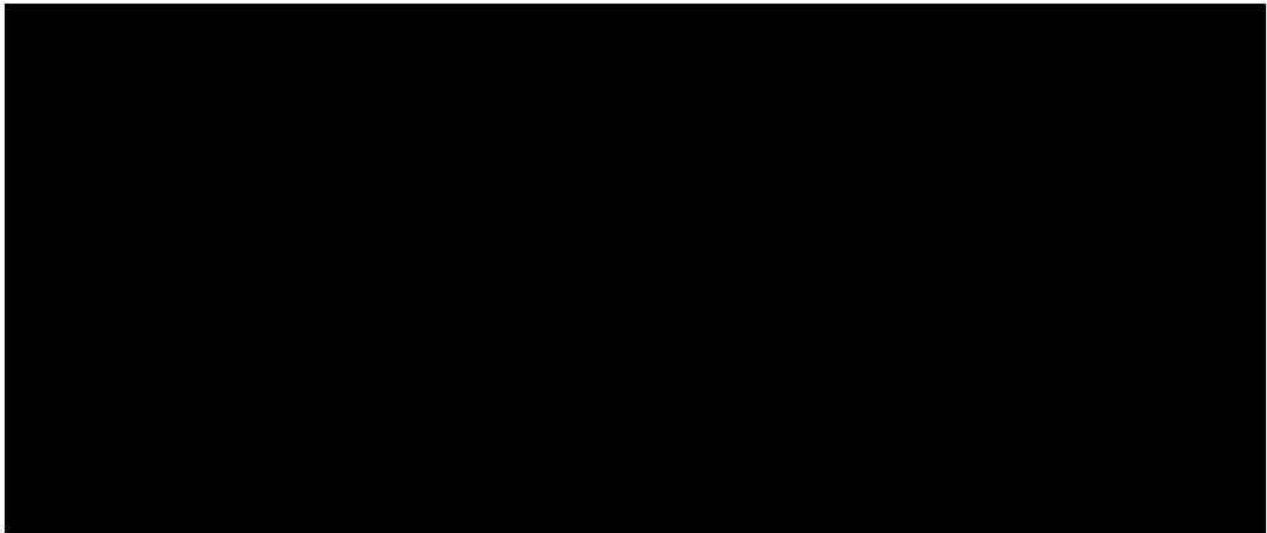
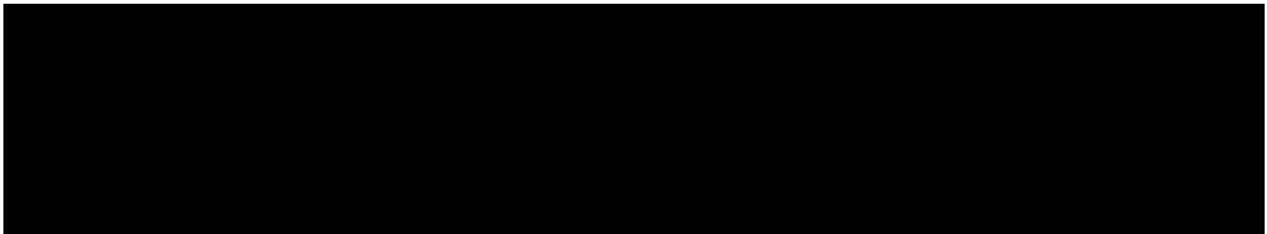
(g) All of Seller's representations and warranties contained herein shall be true and correct on the Closing Date.

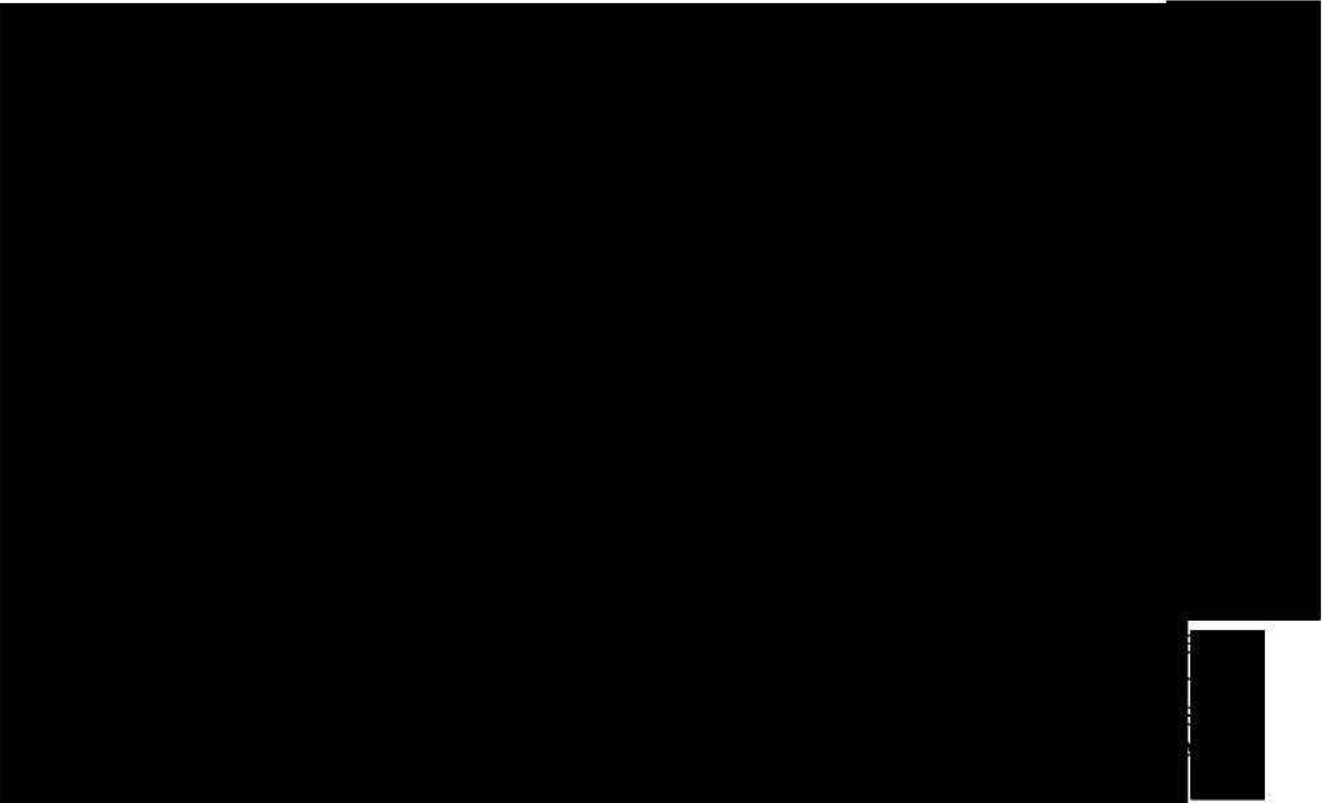
(h) Seller has delivered into escrow all deliverables required in accordance with Section 10(b) below.

(i) Seller is not otherwise in default of this Agreement.

(j) The Land constitutes a separate legal parcel in accordance with all applicable laws. This legal parcel condition is not subject to waiver by the parties.

9. Remedies.





SELLER INITIALS: CLJ RAL
PURCHASER INITIALS: [scribble] P

10. Closing and Escrow.

(a) The parties shall conduct an escrow Closing pursuant to this Section 10 on a date to be selected by Purchaser, which date shall be specified in Purchaser's notice exercising the Option pursuant to Section 4, [redacted] or on such other date as Purchaser and Seller may agree in writing in their sole and absolute discretion (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser. In the event the Closing does not occur on or before the Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the respective party any items previously delivered by such party to the Title Company. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

(b) At or before the Closing, Seller shall deliver to the Title Company (for delivery to Purchaser upon the Closing) the following:

(i) a duly executed and acknowledged Deed in the form attached hereto as **Exhibit C**;

(ii) all material documents, agreements and correspondence and items relating to the ownership, operation, maintenance or management of the Property;

(iii) a duly executed bill of sale agreement transferring title to all of Seller's interest in any personal property located on the Property as of Closing in a form reasonably acceptable to Seller and Purchaser (the "Bill of Sale") (provided, however, that neither the delivery by Seller, nor the acceptance by Purchaser, of this Bill of Sale obviates Seller's obligation to deliver the Property free and clear of all personal property at Closing;

(iv) a duly executed assignment and assumption agreement assigning Seller's interest in the Intangible Personal Property in a form reasonably acceptable to Seller and Purchaser (the "**Assignment of Intangibles**");

(v) evidence that all Service Contracts and Leases have been terminated;

(vi) a certificate, dated as of the date of Closing certifying that the representations and warranties set forth in Section 11 are true and correct as of the Closing Date;

(vii) a certificate of non-foreign status in accordance with the requirements of Internal Revenue Code Section 1445, as amended;

(viii) not used;

(ix) not used; and

(x) any other closing documents reasonably requested by the Title Company or Purchaser, including an owner's affidavit in a form reasonably requested by the Title Company. Purchaser may, in its sole and exclusive discretion, waive compliance on Seller's part under any of the foregoing items by an instrument in writing.

(c) At or before the Closing, Purchaser shall deliver to the Title Company (for delivery to Seller upon the Closing) the following:

(i) the balance of the Purchase Price in cash or other immediately available funds, subject to prorations and adjustments as set forth herein;

(ii) the Assignment of Intangibles duly executed by Purchaser; and

(iii) any customary and/or reasonable closing documents requested by the Title Company.

(d) The following are to be apportioned as of the Closing Date as follows, with Purchaser being deemed to be the owner of the Property during the entire day on which the Closing

takes place and being entitled to receive all income of the Property, and being obligated to pay all expenses of the Property, with respect to such day:

(i) Utility Charges. Seller shall be responsible for the cost of all utilities used, if any, prior to the Closing Date.

(ii) Other Apportionments; Closing Costs. Property taxes shall be apportioned as of the Closing Date based on the latest available tax bill. [REDACTED]

[REDACTED]

[REDACTED]. All other costs and charges of the escrow for the sale not otherwise provided for in this Section 10(d)(ii) or elsewhere in this Agreement shall be allocated in accordance with the applicable closing customs for the county in which the Property is located, as determined by the Title Company. If any of the aforesaid pro-rations cannot be calculated accurately as of the Closing Date, then they shall be calculated as soon after the Closing as feasible. Either party owing the other party a sum of money based on such subsequent proration(s) shall promptly pay said sum to the other party.

(iii) Survival. The provisions of this Section 10(d) shall survive the Closing for twelve (12) months.

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has not, and as of the Closing, Seller shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not, and as of the Closing shall not be, a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement (i) has been duly authorized, executed and delivered by Seller, and (ii) does not, and as of the Closing shall not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) There is no litigation pending or, to Seller's Actual Knowledge (defined below), threatened with respect to the Property or the transactions contemplated hereby or that would impair Seller's ability to perform under this Agreement.

(e) To Seller's Actual Knowledge and belief, there are no violations of any applicable environmental, zoning or land use law, or any other applicable local, state or federal law or regulation relating to the Property, including, without limitation, the Americans with Disabilities Act of 1990 and Seller is not aware of any proposed or pending changes in zoning or proposed relocation, reconfiguration or other change with respect to any street or road affecting the Property, if any.

(f) To Seller's Actual Knowledge, there are no condemnation proceedings pending or threatened that would result in the taking of any portion of the Property. Seller has not received any written notice of any special assessment proceedings affecting the Property that are not disclosed on the Preliminary Report.

(g) The parties comprising Seller under this Agreement are the sole owners of the Property and Seller holds good and marketable fee simple title to the Property according to laws of the State where the Property is located.

(h) To Seller's Actual Knowledge, the Land constitutes a separate legal parcel (or separate legal parcels) in accordance with all applicable laws.

(i) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(j) To Seller's Actual Knowledge, the Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement are, or when delivered will be, all of the relevant documents, materials, reports and other items pertaining to the condition and operation of the Property, will be true, correct and complete copies, and will be in full force and effect, without default by any party and without any right of set-off except as disclosed in writing at the time of such delivery.

(k) Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller.

(l) Hazardous Materials have not at any time been generated, used or stored on, or transported to or from, or released or disposed of on the Property in violation of environmental laws and restrictions, and Seller has not used Hazardous Materials on the Property for purposes other than (i) as necessary to operate and maintain the Property and (ii) in compliance with all environmental laws and restrictions. To the Actual Knowledge of Seller, there are not now and never have been any underground storage tanks located on or under the Property and there is no asbestos contained in, forming part of, or contaminating any part of the Property. For the purposes hereof, "**Hazardous Materials**" shall mean (i) any petroleum or petroleum distillates and products, flammable explosives, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls in any concentrations, and radon gas; (ii) any chemicals, materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any environmental laws and restrictions; and (iii) any other chemical, material,

substance, or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority.

All representations and warranties made by Seller herein or made in writing pursuant to this Agreement shall be deemed to be material, shall be deemed remade as of the Closing and shall survive the execution and delivery of this Agreement and the Closing for a [REDACTED] "Actual Knowledge" shall mean and be limited to actual (and not constructive) current knowledge, without duty of inquiry or investigation.

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a duly organized and validly existing limited liability company in good standing under the laws of the State in which it was formed; this Agreement and all documents executed by Purchaser which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Purchaser is subject.

(b) Purchaser has not, and as of the Closing, Purchaser shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Purchaser's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

All representations and warranties made by Purchaser herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing for a [REDACTED]

13. Condition of Improvements and Risk of Loss.

(a) Seller agrees that upon delivery of the Deed, the Property (including all Improvements) shall be in the same condition as they are on the Effective Date of this Agreement, reasonable wear and tear, obsolescence and loss by casualty excepted.

(b) In the event of any damage to the Property before Closing, such damage may be repaired by and at the cost of Seller prior to the Closing, and if not so repaired, Purchaser may elect to either (i) if such damage materially impacts Purchaser's planned use of the Property, [REDACTED]

[REDACTED]

[REDACTED]

(c) Purchaser shall assume all risk of loss with respect to the Property at 5:00 p.m. Pacific Standard Time on the Closing Date.

14. Access; Indemnity; Possession.

(a) Access. Commencing on the Effective Date and through the Closing Date or the earlier termination of this Agreement, Seller shall, and shall cause Seller's tenants, if any, to afford authorized representatives of Purchaser reasonable access to the Property for purposes of satisfying Purchaser with respect to the representations, warranties and covenants of Seller contained herein and with respect to satisfaction of any Diligence Period Condition or any Condition Precedent, including, without limitation, to conduct Purchaser's Due Diligence Investigations, measurement of meteorological characteristics of the Property which may require the installation of a meteorological station, conducting of geotechnical tests and borings and performing a Phase I or Phase II environmental site assessment of the soils, waters and improvements on the Property. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] During the Option Term, at Purchaser's option and with prior notice to Seller, Seller shall (and shall cause Seller's tenants, if any, to) allow Purchaser access to the Property for purposes of controlling the formation of wetlands or wildlife habitat. If this Agreement is terminated for a reason other than a default under this Agreement by Seller, Purchaser shall repair the damage caused by Purchaser's entry onto and/or inspections of the Property; provided, however, the foregoing shall not require Purchaser to repair or remediate any conditions that are merely discovered by Purchaser. [REDACTED]

case [REDACTED]

(b) Seller's Continued Use of Property. During the Option Term, subject to Purchaser's rights set forth in this Agreement, Seller may continue to use or lease the Property. All existing Leases shall be terminated by Seller [REDACTED] effective prior to the Closing and Seller shall deliver possession of the Property free and clear of any interests or rights of tenants, licensees, or other occupants in possession. Seller shall (and shall cause Seller's tenants, if any, to) remove all personal property, motor homes, junk, trash, sheds and similar property from the Property on or before the date that is seven (7) days prior to the Closing Date. [REDACTED]

[REDACTED] Following the

Effective Date, Seller shall not renew any existing Lease, enter into any new lease for all or any part of the Property, or agree to or allow any other lien, encumbrance, easement or other exception or matter to affect the Property, title thereto or the Survey (collectively, "New Matter"), without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that if such New Matter would remain in effect after Closing, such consent may be withheld in Purchaser's sole and absolute discretion.

(c) Possession. Possession of the Property shall be delivered to Purchaser at 5:00 p.m. Pacific Standard Time on the Closing Date;

[REDACTED]

[REDACTED]

[REDACTED]

15. Seller Covenants.

(a) At the time of the Closing, [REDACTED]

and Seller shall cause to be discharged all mechanics' and materialmen's liens arising from any labor or materials furnished to the Property prior to the time of the Closing.

(b) Between the Effective Date and the Closing, to the extent Seller has any knowledge thereof, Seller shall promptly notify Purchaser of the following items relating to the Property: (i) any condemnation, environmental, zoning or other land-use regulation proceedings; (ii) any notices of violations of any laws; (iii) any litigation relating to the Property or that arises out of the ownership of the Property or affects Seller's ability to perform under this Agreement; and (iv) the termination, modification or default under any Leases or Service Contracts.

(c) Through the Closing Date, Seller shall maintain or cause to be maintained, at [REDACTED] all policies of insurance currently in effect with respect to the Property (or comparable replacements thereof) and Seller shall maintain the Property in the same condition existing as of the Effective Date, reasonable wear and tear excepted.

(d) Seller shall also deliver to Purchaser copies of any bills for real estate taxes and personal property taxes and copies of any notices pertaining to real estate taxes or assessments applicable to the Property that are received by Seller after the Effective Date, even if received after Closing. [REDACTED]

(e) Seller shall remove the Property from the market, if listed, and shall not market the Property for sale during the term of this Agreement.

(f) Purchaser shall have the right, at Purchaser's expense, to apply for, change and/or obtain zoning changes, general plan amendments, land use entitlements, planning approvals, permits, tax classifications, , property tax exemptions, subdivision and/or lot line adjustment approvals affecting the Property consistent with Purchaser's intended use of the Property. Seller shall cooperate with Purchaser in Purchaser's efforts to obtain such approvals by executing such documents and taking such actions as are reasonably necessary to obtain such approvals. Seller agrees that it shall not contest, challenge or publicly or privately dispute, verbally or in writing, Purchaser's efforts to obtain any such approvals.

16. Miscellaneous.

(a) Binding on Successors. This Agreement shall be binding not only upon the parties but also upon their respective heirs, executors, personal representatives, assigns, and other successors in interest.

(b) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand

delivery, (ii) one (1) business day after being deposited with FedEx or another reliable overnight courier service, with receipt acknowledgment requested, (iii) upon receipt if transmitted by facsimile telecopy, with a copy sent on the same day by one of the other permitted methods of delivery, or (iii) upon receipt or refused delivery deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

IF TO SELLER:

Robert A. List and Cynthia G. List



Phone [_____]

Fax No.: [_____]

E-mail (for informational purposes only): [_____]

IF TO PURCHASER:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

Phone: [_____]

Fax No.: [_____]

Email: [_____]

WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO:


Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Attn: John Livingston

Phone: [_____]

Fax No.: [_____]

Email: [_____]

or such other address as either party may from time to time specify in writing to the other.

(c) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any broker or finder makes a claim for a commission or finder's fee based upon any contact, dealings or communication, the party whose conduct is the basis for the broker or finder making its claim shall indemnify, defend and hold harmless the other party against and from any commission, fee, liability, damage, cost and expense, including without limitation attorneys' fees, arising out of or resulting from any such claim. The provisions of this Section 16(d) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement, in each case, 

(d) Recording and Subordination. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located (the "Memorandum"). If this Agreement is terminated, Purchaser agrees to execute and record a termination of the Memorandum in the form attached hereto as Exhibit D-1. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall obtain from the holder of any mortgage or deed of trust liens or any other monetary lien encumbering the Property a reasonable subordination agreement whereby the holder of such lien agrees that its lien is subordinate to Purchaser's option.

(e) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

(g) Merger of Prior Agreements. This Agreement and the exhibits and schedules hereto, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

(h) Time of the Essence. Time is of the essence of this Agreement; provided, however, should the date for payment or performance required under this Agreement fall on a non-business day (i.e., Saturday, Sunday or any other day on which national banks in California are not open for business), then the date required for payment or performance under this Agreement shall be extended to the first business day following the non-business day on which such payment or performance was required.

(i) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(j) Confidentiality. Seller agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated hereby; provided, however, that Seller, its agents and representatives may disclose such information and data (a) to its accountants, attorneys, and other advisors in connection with the transactions contemplated by this Agreement (collectively "Representatives") to the extent that such Representatives reasonably need to know such information and data in order to assist, and perform services on behalf of, Seller, but Seller shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; and (c) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. The provisions of this Section 16(k) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement. Notwithstanding the provisions of this Section 16(k), the recording of the memorandum of this Agreement as contemplated by Section 16(e) is expressly permitted.

(k) Attorneys' Fees. The prevailing party in any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Agreement or for the interpretation of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

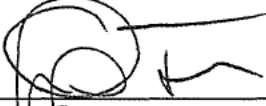
(l) Counterparts and Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Signatures required under this Agreement may be transmitted by facsimile or electronic mail and, once received by the party to the Agreement to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By:  _____

Name: EMERGEN FEAR

Its: MANAGER

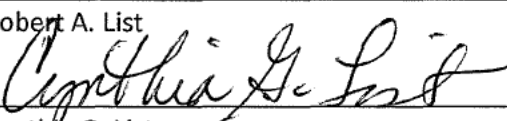
Date: October, 5th, 2020

SELLER:

Robert A. List and Cynthia G. List

 _____

Robert A. List

 _____

Cynthia G. List

Date: 9/28/20, 2020

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Property located in Fleming County, Kentucky, more particularly described as follows:

[The Seller and Purchaser agree to add a legal description of the Land as soon as it has been prepared.]

EXHIBIT B

TERMINATION AGREEMENT
OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY

APN 058-00-00-015.00, FLEMING COUNTY, KENTUCKY

THIS TERMINATION AGREEMENT (this "Termination Agreement"), dated as of [____], 2020 (the "Termination Date"), is entered into by and between **Robert A. List and Cynthia G. List**, ("Seller"), and **Hummingbird Solar LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to that certain Option Agreement for the Purchase and Sale of Real Property, dated as of [____], 2020 (the "Option Agreement"), pursuant to which Seller granted Purchaser an exclusive and irrevocable option to purchase from Seller certain real property located in Fleming County, Kentucky (APN: 058-00-00-015.00) on the terms and conditions set forth in the Option Agreement.

B. Pursuant to Section 2(b) of the Option Agreement, Purchaser has the right to terminate the Option Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

C. Purchaser has elected to terminate the Option Agreement pursuant to Section 2(b) thereof, and Purchaser and Seller desire to enter into this Termination Agreement in order to evidence such termination and to release one another from their respective obligations thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereby agree as follows:

1. Defined Terms. Initially capitalized terms used but not defined herein have the meanings set forth in the Option Agreement.

2. Termination of the Option Agreement. Purchaser has terminated the Option Agreement by notice dated [____], 2020, and Purchaser and Seller hereby agree that the Option Agreement has terminated without liability to either party and is of no further force or effect.

3. Release of Liability. Except as otherwise provided herein, Purchaser and Seller are fully and unconditionally released and discharged from their respective obligations under the Option Agreement, whether arising before or after the termination and including with respect to the payment of any consideration thereunder.

4. Surrender of Property. Purchaser acknowledges its release and surrender to Seller of all of any right, title and interest in and to the Property and hereby agrees to vacate the Property.

5. Successors and Assigns. This Termination Agreement shall be binding upon and shall inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

6. Counterparts. This Termination Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties.

7. Governing Law. This Termination Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Georgia.

8. Documentation. Each party shall execute and deliver such additional instruments, agreements, and documents and take such other actions as the other party may reasonably require in order to carry out the intent and purpose of this Termination Agreement.

9. Severability. If any term or provision of this Termination Agreement shall be held invalid or unenforceable, the remainder of this Termination Agreement shall not be affected.

10. No Third Party Beneficiaries. This Termination Agreement is solely for the benefit of Purchaser and Seller and their successors and permitted assigns and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Termination Agreement to be executed and delivered as of the day and year first written above.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: _____
Name:
Title:

SELLER:

Robert A. List and Cynthia G. List

By: _____
Robert A. List

By: _____
Cynthia G. List

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

WHEN RECORDED RETURN TO:

HUMMINGBIRD SOLAR LLC
c/o Geenex Solar
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attention: Walter Putnam

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made and entered into as of the ____ day of _____, _____, between (a) [_____] ("Grantor") and having and address of _____ and (b) **HUMMINGBRID SOLAR LLC**, a Kentucky limited liability company ("Grantee") and having an address of _____, which is the in care of address for Grantee to which tax bills may be sent.

WITNESSETH

For a total consideration of \$ _____, the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple with covenant of Special Warranty certain real property located in Fleming County, Kentucky and more particularly described on EXHIBIT A attached hereto and made a part hereof together with all appurtenances thereto (the "Property").

Grantor covenants (a) lawful seisin of the Property (b) full right and power to convey same, and (c) that the Property is free and clear of all liens and encumbrances by or in favor of any party claiming by, through or under Grantor except liens for real property taxes and assessments due and payable in _____ and thereafter, which Grantee assumes and agrees to pay. This conveyance is made subject to all (i) easements, restrictions and stipulations of record, and (ii) governmental laws, ordinances and regulations affecting the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Special Warranty Deed, certify that the consideration recited above is the full consideration paid by Grantee to Grantor for the Property.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor and Grantee duly executed this Deed as of the date first set forth above.

GRANTOR:

[]

STATE OF _____)
COUNTY OF _____)

) SS

The foregoing Special Warranty Deed, including the consideration certificate contained therein, was sworn to and acknowledged before me on _____, ____ by [].

Notary Public
My Commission Expires: _____

GRANTEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Title: _____

STATE OF _____)
COUNTY OF _____)

) SS

The foregoing consideration certificate was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar, LLC, a Kentucky limited liability company, on behalf of such company

Notary Public
My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

EXHIBIT A TO SPECIAL WARRANTY DEED

[Attach the legal description of the Property including the Grantor's source of title]

EXHIBIT D

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY and
WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF OPTION AGREEMENT

This MEMORANDUM OF OPTION AGREEMENT (this "Memorandum") is dated and made as of [_____], 2020, by and between **ROBERT A. LIST and CYNTHIA G. LIST, his wife** ("Owner"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Optionee").

WHEREAS:

A. Owner owns the real property more particularly described on **Exhibit A** attached hereto, which by this reference is incorporated herein (the "Property").

B. Owner and Optionee have entered into that certain Option Agreement for the Purchase and Sale of Real Property dated as of [_____], 2019 (the "Option Agreement"), which is incorporated herein by reference as though fully set forth herein, to provide an option in favor of Optionee to purchase all of the Property according to the terms and conditions of the Option Agreement.

C. The Effective Date under the Option Agreement is [_____], 2020. The Option Term is effective through [REDACTED].

D. Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to purchase all of the Property on the terms and conditions set forth in the Option Agreement. All of the

terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Option Agreement. Should there be any inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall prevail.

This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date set forth ~~above~~.

Signed, sealed and delivered in
the presence of:

Unofficial Witness

Notary Public

My commission expires:

[NOTARIAL SEAL]

Owner:

[OWNER]

By: _____
Robert A. List

By: _____
Cynthia G. List

Signed, sealed and delivered in
the presence of:

Unofficial Witness

Notary Public

My commission expires:

[NOTARIAL SEAL]

Optionee:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: _____

Name: _____

Title: _____

EXHIBIT A TO MEMORANDUM OF OPTION AGREEMENT

LEGAL DESCRIPTION

[Owner and Optionee agree to add a legal description of the Land as soon as it has been prepared.]

EXHIBIT D-1

Recording requested by
and when recorded mail to:

Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TERMINATION OF [MEMORANDUM OF OPTION AGREEMENT]

THIS TERMINATION OF MEMORANDUM OF OPTION AGREEMENT ("Termination") is made as of the ____ day of ____, 20__ by **Hummingbird Solar LLC**, a Kentucky limited liability company ("Grantor").

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby remises, releases and forever quitclaims unto [_____], all of Grantor's rights and interests in the real property more particularly described in Exhibit A attached hereto, which Grantor may have acquired pursuant to that certain [**Option Agreement for the Right to Purchase Property**], dated as of [____], a memorandum of which was recorded on [____] as Instrument Number [____], in Volume [____], Page [____], in the Official Records of [____] County, [____], *[as affected by (Amendment to Option to Land Lease and Land Lease Agreement/Amendment to Option Agreement for the Purchase and Sale of Real Property) dated _____, an amendment to memorandum of which was recorded on [] as Instrument Number [], in Volume [], Page [], in the Official Records of ____ County, STATE]*

IN WITNESS WHEREOF, Grantor has executed this Termination as of the date first above written.

[SIGNATURE PAGE FOLLOWS]

Signed, sealed and delivered in
the presence of:

GRANTOR:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

Unofficial Witness

By: _____

Notary Public

Name: _____

My commission expires:

Title: _____

[NOTARIAL SEAL]

EXHIBIT A
to Termination of Memorandum of Option Agreement

Legal Description

AMENDED AND RESTATED OPTION AGREEMENT

This Amended and Restated Option Agreement (this “**Option Agreement**”) made effective as of the 30 day of November 2022 (the “**Effective Date**”), by and among, Eric Carpenter and Aileen Carpenter, husband and wife (together, the “**Seller**”) and Hummingbird Solar, LLC, a Kentucky limited liability company (“**Purchaser**”), hereby recites and provides,

RECITALS:

- A. Seller and Purchaser are parties to that certain Option Agreement dated as of July 16, 2019 (the “**Original Option Agreement Date**”).
- B. Seller and Purchaser desiring to amend and restate the Original Option Agreement, have elected to enter into this Option Agreement and to execute a Memorandum of Amended and Restated Option Agreement.
- C. Seller is the owner of certain real property located in the County of Fleming, Kentucky, containing approximately 118 acres, identified as Tax Parcel No. 069-00-00-043.00 and further described on Exhibit A attached hereto and incorporated herein (the “**Property**”).
- D. Seller and Purchaser have entered into that certain Solar Ground Lease Agreement dated as of July 16, 2019 (the “**Lease**”), in which Purchaser leased from Seller a portion of the Property (such portion, the “**Premises**”) described on Exhibit A-1 attached hereto and incorporated herein. The Lease has been amended on or about the date of this Option Agreement. Upon the closing and recordation of the Deed (defined below), the Lease shall automatically be amended to exclude the Option Property from the Premises.
- E. Seller desires to give Purchaser an option to purchase a portion of the Property up to approximately 15 acres more specifically depicted on Exhibit B attached hereto and incorporated herein by reference (the “**Option Property**”) as subject to the terms and conditions set forth below. The Option Property shall include all water rights or mineral rights owned by, or leased to, Seller, 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; however, Seller and Purchaser acknowledge that there are no buildings, structures or other improvements on the Option Property as of the Original Option Agreement, and none shall be installed or constructed by Seller thereon between the Original Option Agreement Date and the closing.

AGREEMENT:

Therefore, for and in consideration of the Amendment Payment (defined in Section 12(l) below), the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated by reference.

2. **Option Fee; Due Diligence Date; Survey.**

a. In consideration of the sum of [REDACTED] (the "**Initial Option Fee**"), and other good and valuable consideration, the sufficiency of which are hereby acknowledged by Seller, Seller grants Purchaser the sole and exclusive option (the "**Option**") to purchase the Option Property for [REDACTED]. Seller acknowledges receipt of the Initial Option Fee as of the Original Option Agreement Date. The Purchase Price shall be paid at closing. [REDACTED] ("**Independent Consideration**") of the Initial Option Fee paid by Purchaser shall be retained by Seller as independent consideration for Purchaser's right to terminate this Option Agreement as set forth below. The Independent Consideration shall not be credited toward the Purchase Price at closing, and shall otherwise be non-refundable. The parties acknowledge and agree that the Independent Consideration is adequate consideration paid by Purchaser to Seller for entering into this Option Agreement and for the right and ability of Purchaser to commence its due diligence of the Property, to evaluate the transaction contemplated by this Option Agreement, and to terminate this Option Agreement.

b. In the event Purchaser has not exercised or terminated its Option under this Option Agreement on or before December 31, 2022, Purchaser shall deliver to Seller [REDACTED] (the "**Second Option Fee**") on or before such date.

c. In the event Purchaser has not exercised or terminated its Option under this Option Agreement on or before December 31, 2023, Purchaser shall deliver to Seller an additional [REDACTED] (the "**Third Option Fee**") on or before such date.

d. In the event Purchaser has not exercised or terminated its Option under this Option Agreement on or before December 31, 2024, Purchaser shall deliver to Seller an additional [REDACTED] (the "**Fourth Option Fee**") on or before such date.

e. In the event Purchaser has not exercised or terminated its Option under this Option Agreement on or before December 31, 2025, Purchaser shall deliver to Seller an additional [REDACTED] (the "**Fifth Option Fee**") on or before such date.

The Initial Option Fee, the Second Option Fee, the Third Option Fee, the Fourth Option Fee and the Fifth Option shall collectively be referred to as the "**Option Fee**". [REDACTED]

Notwithstanding anything to the contrary contained in this Option Agreement, Purchaser may terminate this Option Agreement by written notice to Seller given on or before December 31, 2026 (the "**Due Diligence Date**"), in which case (1) Seller shall retain any portion of the Option [REDACTED]

[REDACTED]

The final description of the Option Property shall be determined by an ALTA survey (the "Survey") of an area that is substantially similar to the area set forth on **Exhibit B**. Purchaser shall complete the Survey on or before the Due Diligence Date. Upon completion of the Survey, Purchaser shall deliver a copy of the Survey to Seller. Purchaser may unilaterally amend this Option Agreement by delivering to Seller a written notice which shall automatically replace the Option Property depicted on **Exhibit B** with the amended legal description of the Option Property shown on the Survey, and the legal description of the Option Property on the Survey shall be used in any conveyance documents at the closing of the purchase of the Option Property.

3. **Exercise of Option.** The exercise of the option to purchase the Option Property shall be made by Purchaser by delivering written notice of the exercise of the Option to Seller not later than 5:00 p.m. (eastern daylight savings time) on the Due Diligence Date, at the address listed for Seller herein. The written notice shall be deemed to have been delivered to Seller upon delivery of the written notice by either hand delivery, certified mail, return receipt requested, or by an overnight courier service. If Purchaser does not exercise the Option by the aforesaid date, this Option Agreement shall be considered null, void and of no effect, unless the parties otherwise agree otherwise in writing.

4. **Permits.** Upon execution of this Option Agreement, Purchaser shall commence efforts to obtain, [REDACTED], all necessary approvals and permits from local, state and federal entities (collectively, the "Permits") necessary for (i) the transfer of the Option Property from Seller to Purchaser as contemplated by this Option Agreement, including any subdivision and/or boundary line adjustment approvals, and (ii) the construction and operation of an electric utility substation and interconnection facilities (the "Intended Use") on the Option Property, subject to such conditions as are acceptable to Purchaser, in its sole and absolute discretion. Seller agrees to cooperate with Purchaser to the extent reasonably necessary for Purchaser to obtain approval of the Permits by the appropriate governmental authorities and in connection therewith, Seller agrees to execute such applications and other documents as may be requested by Purchaser and/or the appropriate governmental authorities in connection with the Permits. Additionally, Purchaser shall have the right, [REDACTED] to seek all permissions and consents necessary to create a separate legal parcel for the Option Property by subdivision in compliance with applicable law. Seller agrees to cooperate with Purchaser in this regard to the extent reasonably requested. Seller shall not oppose, in any way, whether directly or indirectly, any application by Purchaser for any permit, approval or entitlement at any administrative, judicial, legislative or other level. This Section 4 shall survive the termination or closing under this Option Agreement.

5. **Closing.** In the event Purchaser exercises the Option, the following provisions shall govern the closing:

a. At closing Seller shall deliver to Purchaser a General Warranty Deed conveying good, marketable and insurable fee simple title to the Option Property in the form attached to this Option Agreement as **Exhibit C** (or such other instrument as reasonably requested by Purchaser's designee or assignee) (the "Deed") to Purchaser or

its designee, free of all liens, encumbrances, and defects, and subject only to such restrictions, covenants and easements as shall now be of record which are not objectionable to Purchaser or do not render the title unmarketable or uninsurable. Notwithstanding anything in the foregoing sentence to the contrary, Purchaser may designate a third party as the grantee under the Deed, provided, however, any such designation shall not release Purchaser from any obligations under the Option Agreement, as amended. Without limiting the generality of the foregoing, Seller shall also deliver to Purchaser: (i) a seller's affidavit with respect to the Option Property, concerning, the possession of the Option Property, improvements or repairs made on the Option Property within ninety (90) days of the closing date and the absence of legal proceedings against Seller; (ii) if Seller is not a Foreign Person, a certificate and affidavit of non-foreign status; (iii) a completed 1099-S request for taxpayer identification number and certification and acknowledgment; and (iv) evidence reasonably satisfactory to the issuer of Purchaser's policy of title insurance covering the Option Property that Seller, and the entities and individuals executing the foregoing documents on behalf of Seller, have authority to execute such documents, and to consummate the purchase and sale of the Option Property pursuant to this Option Agreement. The legal description to be used in the conveyance document for the Option Property shall be based upon the Survey.

b. At closing Seller shall give and Purchaser shall take possession of the Option Property, free of all tenants and tenancies.

c. The risk of loss by fire or other casualty is assumed by Seller until closing.

d. As of the Original Option Agreement Date and the Effective Date, Seller hereby makes the following warranties and representations that shall be effective as of the date of closing:

(1) There are no existing boundary, water, or drainage disputes of which Seller has any knowledge, except as noted herein.

(2) There are no actions or proceedings pending or threatened to condemn all or any part of the Option Property. 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 Option Agreement or of any action taken by Seller under this Option Agreement, in any court or before any governmental authority, domestic or foreign.

(3) Seller has paid for all work, labor and materials furnished to the Option Property prior to the recording of the deed, and there will be no mechanic's liens and/or the right of any person to file a mechanic's lien against the Option Property for any reason whatsoever.

(4) There are no substances or materials present on or under the Option Property that would, in their present location, cause the owner of the Option Property to be in violation of any federal, state, or local public health or environmental laws, ordinances, or regulations.

(5) Seller has the lawful right, power, authority and capacity to sell the Option Property in accordance with the terms, provisions and conditions of this Option Agreement.

(6) No portion of the Property is used or has ever been used for the storage, processing, treatment or disposal of 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; to the best of Seller's knowledge, 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 Option 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 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.

e. The parties shall conduct an escrow closing through a title company selected by Purchaser in its sole discretion. Such closing shall take place within ninety (90) days of the exercise of the Option by Purchaser or such earlier date as the parties may agree to in writing, in a location and time mutually acceptable to Purchaser and Seller.

g. Seller agrees to exercise ordinary and reasonable care in the maintenance and upkeep of the Option Property, ordinary wear and tear excepted, from the date of this Option Agreement to the date of closing.

h. The parties hereby represent to each other that no real estate agent or broker was involved in this transaction and each agrees to hold the other harmless from any claim for a commission by reason of any action on their part.

i. The provisions contained in this Option Agreement shall not merge with the Deed, but shall survive the execution and delivery of the Deed.

6. The following prorations and adjustments shall be made between Purchaser and Seller at closing, or thereafter if Purchaser and Seller shall agree:

a. All city, state and county ad valorem taxes and similar impositions levied or imposed upon or assessed against the Option Property (herein called the "Taxes"), for the year in which closing occurs shall be prorated as of the closing date. In the event that, after the closing date, any additional Taxes are levied, imposed upon or assessed against the Option Property for periods prior to the closing date, Purchaser shall give Seller written notice of such Taxes, and Seller shall be responsible for payment of such additional 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 Purchaser 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. If the Taxes for the Option Property include parcels other than the Option Property, such Taxes shall be equitably prorated based on value and Seller shall be responsible for all Taxes not relating to the Option Property.

b. Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Option 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. In making the prorations required by this paragraph, the economic burdens and benefits of ownership of the Option Property for the closing date shall be allocated to Seller.

Except as expressly set forth in this Option Agreement, Purchaser 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.

7. **Interim Period.** Between the Original Option Agreement Date and the closing:

a. Purchaser and Purchaser's agents and designees shall have the right to enter the Property for the purposes of inspecting the Property, conducting soil tests, and making surveys, structural engineering studies, environmental assessments, and any other investigations and inspections as Purchaser may reasonably require to assess the condition of the Property; **provided, however,** that such activities by or on behalf of Purchaser on the Property shall not materially damage the Property.

b. Seller shall pay all Taxes of every kind and nature now or hereafter levied or assessed against the Option Property as the same shall become due and payable from time to time and before interest or penalties accrue thereon. Seller shall under no circumstances permit the Option Property to be sold or advertised for sale for nonpayment of any Tax. If requested by Purchaser, Seller shall deliver to Purchaser receipts evidencing the payment of such Tax within thirty (30) days after Seller's payment of such Tax or Purchaser's demand therefor.

c. Seller shall promptly provide Purchaser with written notice if Seller fails to make any payment of Taxes or any other payment in connection with a mortgage or lien on the Option Property. Seller shall promptly provide a copy of any default notices that Seller receives with respect to any obligation secured by a mortgage or lien on the Option Property.

d. Seller shall continue to operate the Property in a commercially reasonable manner consistent with past practice of Seller. If at the closing of the purchase of the Property, Seller has undertaken the cultivation or planting of any 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 Crop Loss Payment stipulated in the referenced Lease if Buyer gives Seller written notice that Seller will not be allowed to complete the cultivation and harvesting of crops for that given year.

8. **Purchaser's Conditions Precedent.** Purchaser'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 Purchaser, 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 Option 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 Option 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 Purchaser 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. Purchaser shall not have terminated this Option Agreement pursuant to an express right so to terminate set forth in this Option Agreement.

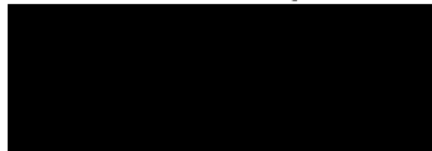
If any of the foregoing conditions have not been satisfied or performed or waived in writing by Purchaser on or as of the closing date, Purchaser shall have the right, at Purchaser's option, either: (i) to terminate this Option Agreement by giving written notice to Seller on or before the closing date, in which event all rights and obligations of Seller and Purchaser under this Option Agreement shall expire, and this Option 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 Option Agreement, or otherwise constitutes a default by Seller under this Option Agreement, to exercise such rights and remedies as may be provided for in this Option Agreement.

9. **Default.** If (i) any representation or warranty of Seller set forth in this Option Agreement shall prove to be untrue or incorrect in any respect, or (ii) Seller shall fail to keep, observe, perform, satisfy or comply with, fully and completely, any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions required by this Option Agreement to be kept, observed, performed, satisfied or complied with by Seller, or (iii) the purchase and sale of the Option Property is otherwise not consummated in accordance with the terms and provisions of this Option Agreement due to circumstances or conditions which constitute a default by Seller under this Option Agreement (the matters described in the foregoing **clauses (i), (ii) and (iii)** are herein sometimes collectively called "**Seller Defaults**"), and Purchaser may exercise such rights and remedies as may be provided for in this Option Agreement or as may be provided for or allowed by law or in equity. Seller hereby acknowledges that Purchaser's remedies in the event of the occurrence of any of the Seller Defaults shall specifically include, without limitation, the right to seek, prove and recover (to the extent proven) monetary damages from Seller in an amount equal to all actual out-of-pocket costs and expenses paid or incurred by Purchaser in connection with its execution of and entry into this Option Agreement and its proposed acquisition of the Option Property, including, without limitation, (A) attorney's fees and disbursements in connection with the negotiation and execution of this Option Agreement, the examination of title to the Option Property, and any other legal matter undertaken by Purchaser pertaining to the Option Property and (B) any examinations, investigations, tests and inspections, undertaken by Purchaser with respect to the Option Property.

10. **Notices.** All notices or other communications required or permitted hereunder, shall, unless otherwise provided herein, be in writing, and shall be (a) personally delivered, (b) delivered by reputable overnight courier, (c) sent by registered or certified mail, return receipt requested and postage prepaid, or (d) transmitted by electronic mail transmission ("**Email**") (so

long as any Email notice contains the following in the Subject line in all caps: "OFFICIAL NOTICE UNDER CARPENTER PURCHASE OPTION – FLEMING COUNTY, KENTUCKY") and is completed before 8:00 pm recipient's California time on a business day, as evidenced by the transmission confirmation generated by the sending Email system; and otherwise on the business day next following the date of completed transmission. Notices delivered pursuant to (b) or (c) above shall be sent addressed to Seller at the address set forth below, to Purchaser at Purchaser's address set forth below and shall be deemed given on the first business day following the mailing date. Notices mailed as provided herein shall be deemed given on the third business day following the mailing date. Notices transmitted by Email shall be deemed given immediately upon delivery so long as a copy is sent two (2) business days after transmission by duplicate notice delivered by one of the other permitted methods of delivery. Notice of change of address shall be given by written notice in the manner detailed in this Section 10.

Seller: Eric and Aileen Carpenter



Purchaser: Hummingbird Solar LLC
7804-C Fairview Road #257
Charlotte, NC 28226



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

11. **Memorandum.** The parties shall concurrently with the execution of this Option Agreement execute a memorandum in the form attached to this Option Agreement as **Exhibit D**, which memorandum may be recorded by Purchaser in the public records in the County in which the Property is located.

12. **Miscellaneous**

a. Except as modified herein, the Option Agreement shall remain in full force and effect. This Option Agreement shall be binding upon and inure to the benefit of the respective assigns and successors in interest of the parties. Purchaser may assign its rights and obligations under this Option Agreement at any time before closing by providing notice of such assignment to Seller.

b. This Option Agreement represents the entire understanding between the parties, and there are no collateral or oral agreements or understandings, and this Option Agreement shall not be modified unless in writing of equal formality signed by both parties.

c. This Option Agreement shall be construed according to the laws of the Commonwealth of Kentucky.

d. If any term, covenant, condition or provision of this Option 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 Option 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. 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.

e. Time is of the essence of this Option Agreement.

f. 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 Option Agreement. If any date set forth in this Option Agreement shall fall on, or any time period set forth in this Option 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.

g. This Option Agreement supersedes all prior discussions and agreements among Seller and Purchaser with respect to the purchase and sale of the Option Property and other matters contained herein, and this Option Agreement contains the sole and entire understanding among Seller and Purchaser with respect thereto. This Option Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Seller and Purchaser. It is understood and agreed that the parties shall be deemed to have drafted this Option Agreement in a way to avoid any negative inference by any court as against the preparer of this Option Agreement.

h. Each party agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Option Agreement or pertaining to the sale contemplated hereby and the information and data furnished or made available by Seller to Purchaser, its agents and representatives in connection with Purchaser's investigation of the Option Property and the transactions contemplated by the Option Agreement; provided, however, that each party, its agents and representatives may disclose such information and data (a) to such party's accountants, attorneys, prospective lenders, accountants, partners, consultants and other advisors in connection with the transactions contemplated by this Option Agreement

(and Purchaser may disclose such information and data to utility companies) (collectively "Representatives") to the extent that such Representatives reasonably need to know (in Purchaser's or Seller's reasonable discretion) such information and data in order to assist, and perform services on behalf of, Purchaser or Seller, but the disclosing party shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Option Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; (c) in connection with any securities filings, registration statements or similar filings undertaken by Purchaser; and (d) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Option Agreement. In addition, Purchaser shall be permitted to provide a redacted copy of this Option Agreement and related purchase documents to utility companies as may be necessary for Purchaser's interconnection and solar facility applications. The provisions of this Section shall survive the closing, or in the event that the closing does not occur, the termination of this Option Agreement.

i. This Option Agreement may be executed in one or more counterparts, each of which so executed and delivered shall be deemed an original, and all of which when taken together shall constitute one and the same instrument.

j. Purchaser and Seller acknowledge that this Option Agreement amends and restates the Original Option Agreement. Seller represents and warrants to Purchaser that, as of the date hereof: (1) the Original Option Agreement was in full force and effect and had been terminated or further modified except pursuant to this Option Agreement; (2) there exist no defaults under the Original Option Agreement or facts or circumstances which might give rise to a default under the Original Option Agreement; (3) all representations in Section 5.d of the Option Agreement are true and correct as of the date of this Option Agreement; (4) Seller has not received a notice of exercise of Purchaser's option to purchase the Option Property; and (5) Seller has received the Initial Option Payment.

k. Seller has not given to Purchaser or received from Purchaser any notice of default. Seller is not in default under the Option Agreement and is not presently aware of any breach or default of Purchaser under the Option Agreement. Seller is not presently aware of any fact or circumstance that, with the passage of time or the giving of notice, or both, would constitute a breach or default under the Option Agreement, or that would entitle Seller to any claim, counterclaim, offset or defense against Purchaser in respect of the Option Agreement. There are no legal proceedings commenced or threatened against Purchaser by Seller. To Seller's knowledge, there are no legal proceedings commenced or threatened against Seller by Purchaser.



[SEE FOLLOWING PAGES FOR SIGNATURES]

Witness the following signatures:

Seller:

By: Eric Carpenter
Name: Eric Carpenter

By: Aileen M. Carpenter
Name: Aileen Carpenter

Purchaser:

HUMMINGBIRD SOLAR, LLC,
a Kentucky limited liability company

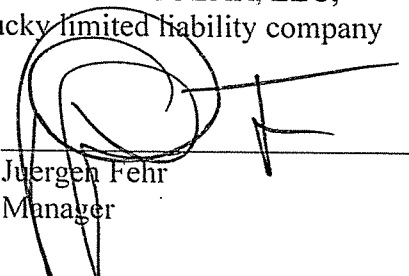
By: 
Name: Juergen Fehr
Title: Manager

EXHIBIT "A"

Description of the Property

Tract One:

Beginning at an old gate post in the old abandoned dirt road, corner to Mrs. Turner and Pad Emmons' line; THENCE with his line S 19 E 14.30 chs. to a set stone in said Emmons' line; THENCE S 86 1/2 E 49.76 chs, to a point in the center of the Mt. Carmel and Beechburg turnpike; THENCE dividing the pike about equally N 5 E 14.10 chs. to a point in the center of the pike corner to Tract No. 2 described herein; THENCE with a line of Tract No. 2 S 86 5/8 W 19.88 chs. and continuing the same course in all 60.02 chs. to the Beginning. Containing 73 acres, 1 quarter and 33 poles.

Tract Two:

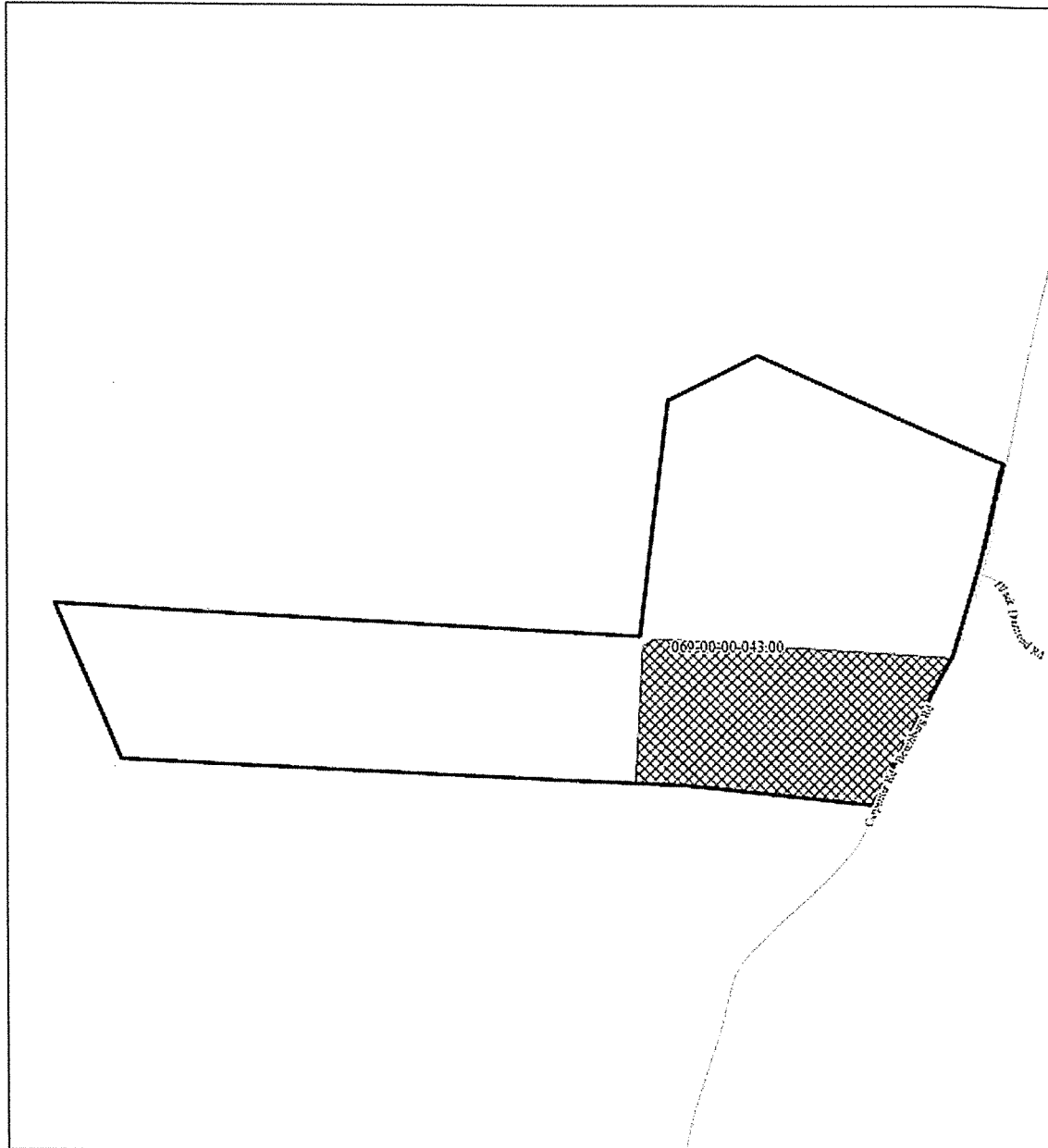
Beginning in the center of the Mt. Carmel Beechburg turnpike and corner to DeLong; THENCE with his line N 59 W 73.12 rods to a set stone; THENCE S 57 1/2 W 29.88 rods to a turn in the old dirt road; THENCE S 5 W 79.28 rods to a post at end of fence in the abandoned end of a dirt road, corner to Mrs. Turner, and in line of Tract One; THENCE with Tract One S 86 5/8 E 79.52 rods to center of pike; THENCE N 13 1/2 E 34.88 rods; N 7 1/2 E 31.96 rods to the Beginning, containing 45 acres and 8 poles.

Being the same property conveyed to Eric Carpenter and Aileen M. Carpenter, husband and wife by that Deed dated March 6, 1972, recorded March 6, 1972 in Book 133, Page 414, Fleming County Court Clerk, Fleming County, Kentucky.





Tax ID No.: 069-00-00-043.00

EXHIBIT "A-1"

Premises



Legend

-  The Land
-  The Premises
-  Do Not Disturb
-  Public Road

0 250 500 1000 1500 US Feet



PARCEL INFORMATION:

PROJECT:
Hummingbird Solar

OWNERSHIP:
Eric Carpenter

PARCEL IDENTIFICATION NUMBER:
069-00-00-043.00

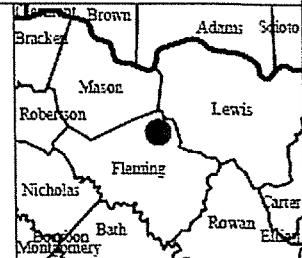


EXHIBIT "B"

Depiction of the Option Property

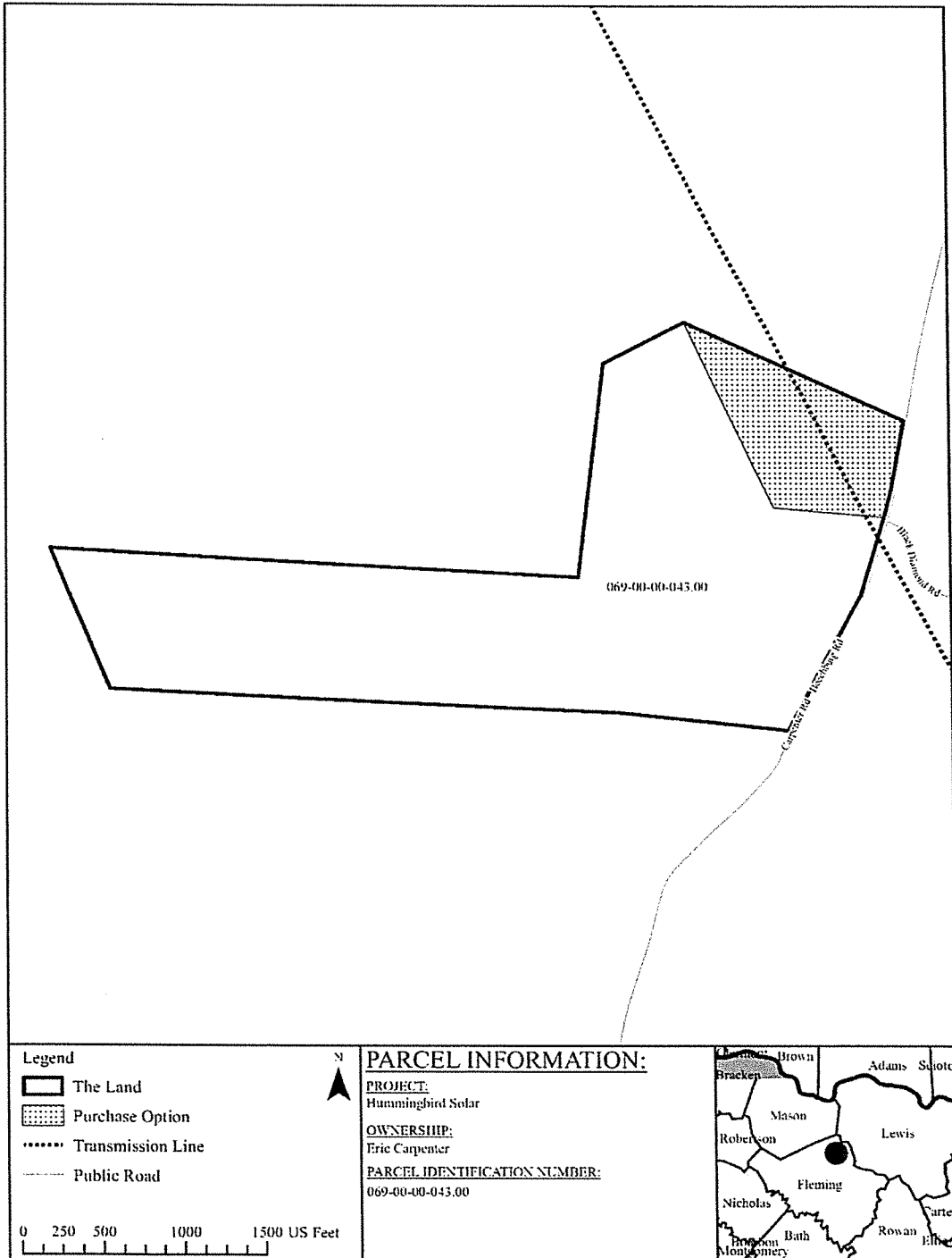


EXHIBIT "C"
General Warranty Deed

[see attached]

GENERAL WARRANTY DEED

THIS DEED is made and entered into as of MONTH DAY, 202_, from

NAME
ADDRESS
CITY, STATE, ZIP CODE

("Grantor")

to

NAME,
ADDRESS
CITY, STATE, ZIP CODE

("Grantee")

WITNESSETH

For a total consideration of Ten and 00/100 Dollars (\$10.00), the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple, absolute with covenant of general warranty, a portion of the real property located at ADDRESS in CITY NAME, COUNTY NAME, Kentucky, and more particularly described on **EXHIBIT A** attached hereto and made a part hereof together with all right, title and interest in and to all improvements located thereon, and all air rights, development rights, mineral rights, water rights, entitlements, appurtenances, rights and privileges appertaining thereto, and all right, title and interest in, to and under adjoining streets, rights of way and easements (the "**Property**").

Grantor covenants, warrants and represents that Grantor is lawfully seized of the Property, has full right, power and authority to convey the Property, and that the Property is free and clear of all taxes, liens and encumbrances except (i) easements, restrictions and stipulations of record, (ii) governmental laws, ordinances and regulations affecting the Property, (iii) liens for real property taxes and assessments due and payable in 202__ and thereafter, which Grantee assumes and agrees to pay, and rights of tenants and other parties in possession of the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Deed, certify that the consideration reflected in this Deed is the full consideration paid for the Property.

For purposes of KRS 382.135, the in-care-of address to which the property tax bill for 202_ may be sent to is: INSERT IN CARE OF ADDRESS HERE.

EXHIBIT A

INSERT LEGAL DESCRIPTION

EXHIBIT "D"
Memorandum

[see attached]

WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
c/o Geenex Solar
1000 NC Music Factory Blvd., Suite C-3
Charlotte, NC 28206
Attention: Paul Scannell

MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

This **MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT** (this “Memorandum”) is made and entered into as of _____, 202_ among (a) **ERIC CARPENTER** and **AILEEN M. CARPENTER**, husband and wife (“Owner”) and having an address of 1423 Carpenter Road, Wallingford, KY 41093, and (b) **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company (“Optionee”) and having an address of c/o Geenex, 7804-C Fairview Rd., #257, Charlotte, NC 28226.

WHEREAS:

A. Owner owns the real property more particularly described on Exhibit A attached hereto and incorporated herein (the “Property”).

B. Owner and Optionee have entered into that certain Amended and Restated Option Agreement, dated _____, 2022 (the “Option Agreement”), which is incorporated herein by reference as though fully set forth herein, to provide an option in favor of Optionee to purchase a portion of the Property according to the terms and conditions of the Option Agreement.

C. The Option Term ends on December 31, 2026.

D. Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Option Agreement.

E. The consideration for the option is defined in the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to purchase a portion of the Property on the terms and conditions set forth in the Option Agreement.

All of the terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

OPTIONEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Memorandum was sworn to and acknowledged before me on _____, _____ by _____, the _____ of Hummingbird Solar LLC, on behalf of such limited liability company.

Notary Public

My Commission Expires: _____

Notary ID: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

Exhibit A to Memorandum

Legal Description

Tract One:

Beginning at an old gate post in the old abandoned dirt road, corner to Mrs. Turner and Pad Emmons' line; THENCE with his line S 19 E 14.30 chs. to a set stone in said Emmons' line; THENCE S 86 1/2 E 49.76 chs, to a point in the center of the Mt. Carmel and Beechburg turnpike; THENCE dividing the pike about equally N 5 E 14.10 chs. to a point in the center of the pike corner to Tract No. 2 described herein; THENCE with a line of Tract No. 2 S 86 5/8 W 19.88 chs. and continuing the same course in all 60.02 chs. to the Beginning. Containing 73 acres, 1 quarter and 33 poles.

Tract Two:

Beginning in the center of the Mt. Carmel Beechburg turnpike and corner to DeLong; THENCE with his line N 59 W 73.12 rods to a set stone; THENCE S 57 1/2 W 29.88 rods to a turn in the old dirt road; THENCE S 5 W 79.28 rods to a post at end of fence in the abandoned end of a dirt road, corner to Mrs. Turner, and in line of Tract One; THENCE with Tract One S 86 5/8 E 79.52 rods to center of pike; THENCE N 13 1/2 E 34.88 rods; N 7 1/2 E 31.96 rods to the Beginning, containing 45 acres and 8 poles.

Being the same property conveyed to Eric Carpenter and Aileen M. Carpenter, husband and wife by that Deed dated March 6, 1972, recorded March 6, 1972 in Book 133, Page 414, Fleming County Court Clerk, Fleming County, Kentucky.

Tax ID No.: 069-00-00-043.00

**AMENDED AND RESTATED OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

**APN NO. 059-00-00-010.00
FLEMING COUNTY, KENTUCKY**

THIS AMENDED AND RESTATED OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made and entered into as of this 30 day of March, 2023 (such date being the date this Agreement is last signed and executed, the "Effective Date"), by and between **DONOHOO RAPP PROPERTIES, L.L.C.**, a Kentucky limited liability company who took title to the Property (defined below) as Donohoo Rapp Properties, LLC, a Kentucky limited liability company ("Seller"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Seller and Purchaser are parties to that certain Option Agreement for the Purchase and Sale of Real Property dated as of February 12, 2020 (the "Original Option Agreement") (the "Original Option Agreement Date").

B. Seller and Purchaser desiring to amend and restate the Original Option Agreement, have elected to enter into this Agreement and to execute a Memorandum of Amended and Restated Option Agreement for the Purchase and Sale of Real Property.

C. Seller is the owner of certain real property in Fleming County, in the state of Kentucky, containing approximately 238 acres of land, commonly identified as APN 059-00-00-010.00 (the "Land"), as more particularly described and depicted on Exhibit A attached hereto and incorporated herein.

D. As used in this Agreement, the term the "Property" shall mean, collectively: (a) the Land, together with all of Seller's right, title and interest in all rights, easements, rights-of-way and other interests appurtenant thereto including, but not limited to, any streets or other public ways adjacent to such Land and any development rights, water rights or mineral rights owned by, or leased to, Seller; (b) all improvements located on such Land, if any (all such improvements being collectively referred to herein as the "Improvements"); and (c) all permits, approvals, and entitlements and other intangible property used in connection with the foregoing, including, without limitation, all of Seller's right, title and interest in any and all warranties and guaranties relating to the Property (collectively, the "Intangible Personal Property").

E. Seller desires to grant to Purchaser an option to purchase the Property on the terms set forth herein. Seller acknowledges that upon acquisition of the Property, Purchaser shall be free to use and dispose of such Property in any manner Purchaser deems appropriate and that Purchaser may sell such Property for any price Purchaser deems appropriate to any subsequent buyer.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

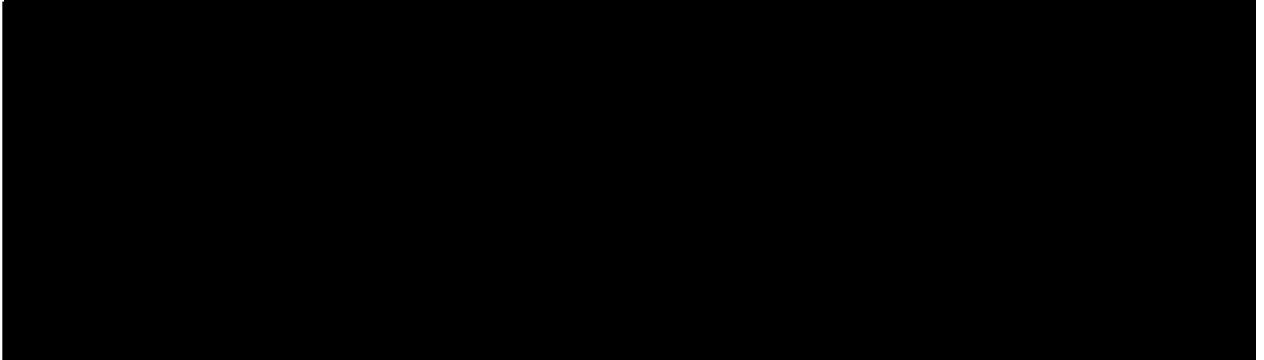
1. Grant of Option to Purchase.

(a) Option to Purchase. Seller hereby grants to Purchaser an exclusive and irrevocable option (the "Option") to purchase from Seller and, if Purchaser exercises the Option, agrees to sell to Purchaser, all of the Property, subject to and upon the terms, covenants and conditions set forth herein.

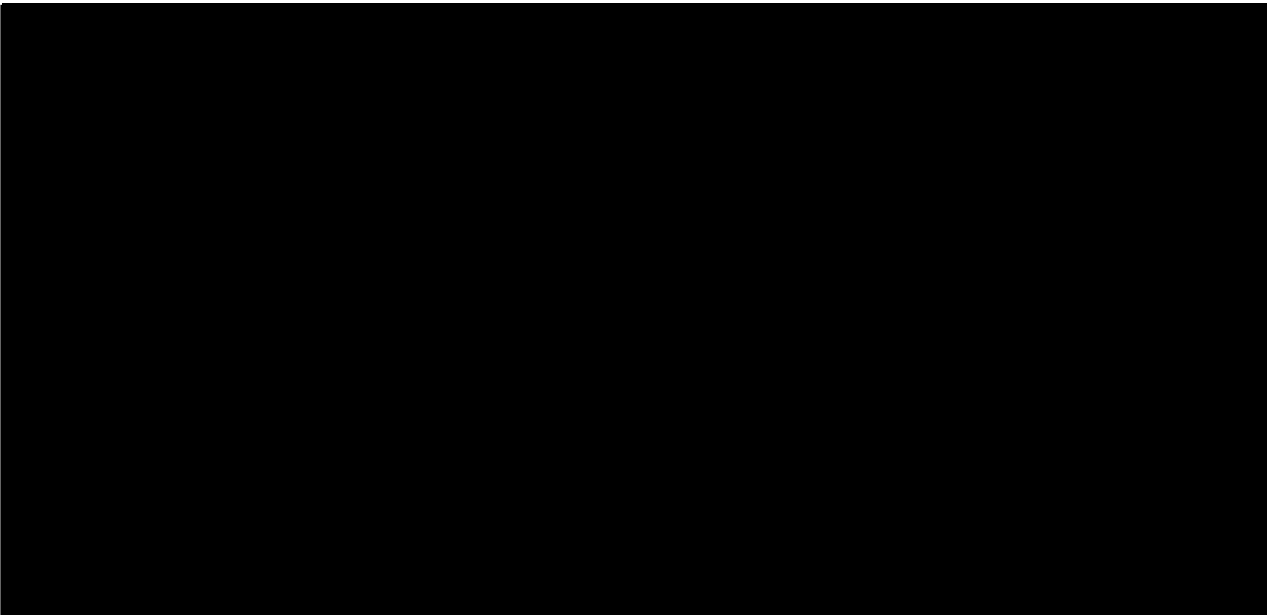
(b) Intentionally Omitted.

2. Option Term.

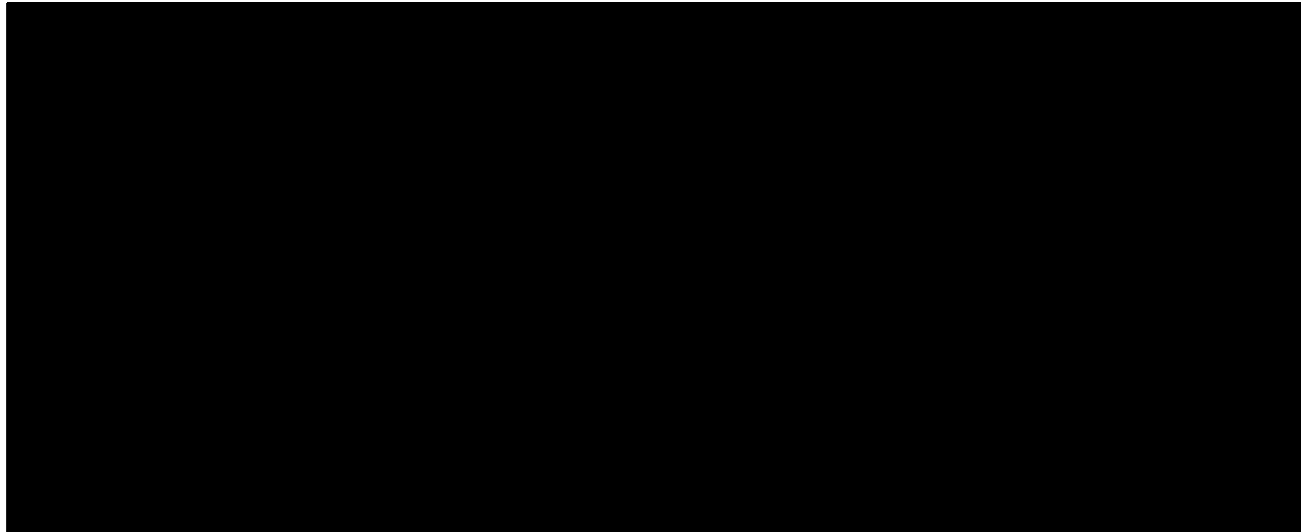
(a) Term. The term of the Option shall commence on the Original Agreement Date and shall expire on the date that is [REDACTED] (the "Option Term"). If Purchaser does not exercise the Option, or terminate this Agreement prior to the expiration of the Option Term, Purchaser shall be deemed to have terminated this Agreement, and the parties shall both execute a writing confirming such termination.



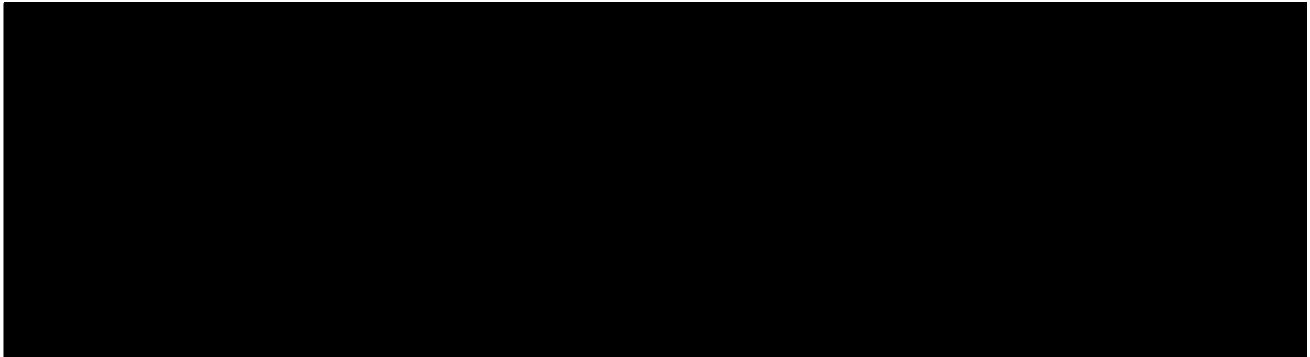
3. Option Consideration.



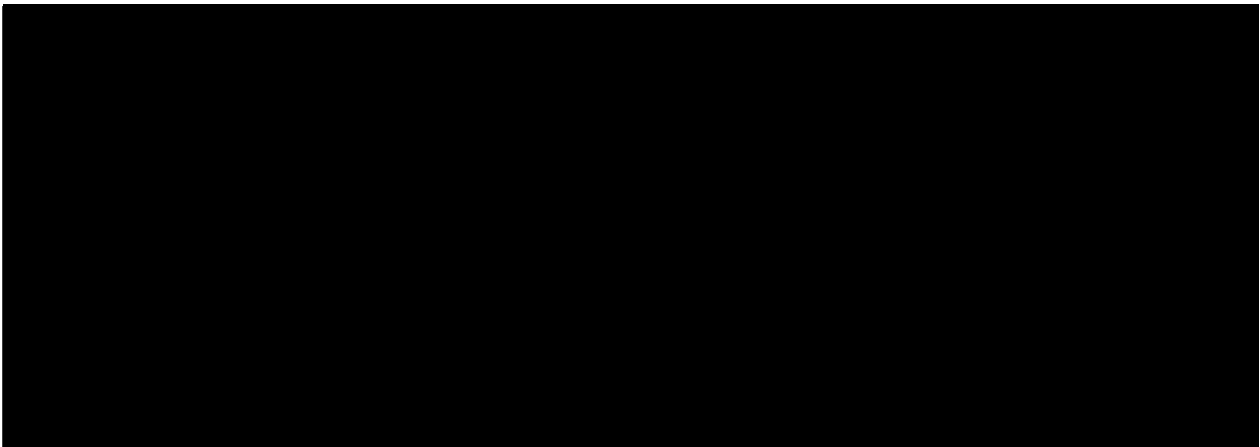
<u>Amount of Option Consideration</u>	<u>Payment Date</u>
[REDACTED]	



(c) Account Information. All payments made by Purchaser under this Section 3 shall be made by wire transfer to the following bank account at Seller's financial institution:



Seller expressly authorizes and approves the payment direction to the Seller as set forth above and waives any claims against Purchaser in the event that payments are made in conformance with the terms herein. Seller shall indemnify Purchaser against any and all claims, losses and causes of action arising out of Purchaser's payments under this Section, including, without limitation, in connection with any dispute amongst payees and/or any members of the Seller. Payment shall be deemed made and paid upon issuance of a wire transfer confirmation number for the transfer of such funds to Seller's account from Purchaser's financial institution.



deemed terminated as provided in this Section 3 or Purchaser fails to tender the Option Notice on or before the expiration of the Option Term.

4. Exercise of Option.

The Option may be exercised upon Purchaser's written notice to Seller of its election to exercise the Option ("Option Notice") within the Option Term specified in Section 2. Such Option Notice shall be deemed timely if it is transmitted by E-mail (defined below), delivered or mailed by, certified mail, return receipt requested, or via a nationally recognized overnight delivery service within the time period specified in Section 2. Purchase may only exercise the Option with respect to all of the Property, and may not exercise the Option as to a portion of the Property. In the event that Purchaser timely exercises the Option, Seller shall sell to Purchaser and Purchaser shall buy from Seller the Property, on the terms and conditions established in this Agreement. Notwithstanding anything to the contrary contained above, Purchaser shall deliver written notice to Seller's Affiliate (defined below) of its election to exercise the option granted under the Spencer and Rebecca Rapp Option (defined below) no later than five (5) business days after the date set forth in the Option Notice, provided, however, that such condition precedent shall be waived to the extent that a "Seller Default" (as such term is defined under the Spencer and Rebecca Rapp Option) has occurred.

5. Purchase Price.

(a) The "Purchase Price" for the Property shall be equal to [REDACTED] of the Property, multiplied by the actual number of acres of the Property (approximately 238 acres) as shown on a new survey of the Property obtained by Purchaser pursuant to this Agreement.

(b) The Purchase Price shall be paid at the closing of the sale of the Property to Purchaser (the "Closing") as follows:

[REDACTED]

(ii) The balance of the Purchase Price, plus or minus prorations and other adjustments hereunder, shall be paid to Seller in cash or other immediately available funds at the Closing.

6. Due Diligence and Time for Satisfaction of Conditions.

Purchaser shall have the right to access the Property and to commence due diligence with respect to the Property immediately following the Effective Date, and the due diligence period ("Due Diligence Period") shall expire at 5:00 p.m. Pacific Standard Time on the last day of the Option Term. Within five (5) days after the Effective Date, Seller shall deliver to Purchaser or make available to Purchaser and its employees, representatives, counsel and consultants access to all of its books, records and files relating to the Property in Seller's possession or control, including, without limitation, all of the items set forth in Section 7 below (collectively, the "Due Diligence Items").

7. Diligence Period Conditions.

The following shall be conditions precedent to Purchaser's obligation to purchase the Property (the "Diligence Period Conditions"):

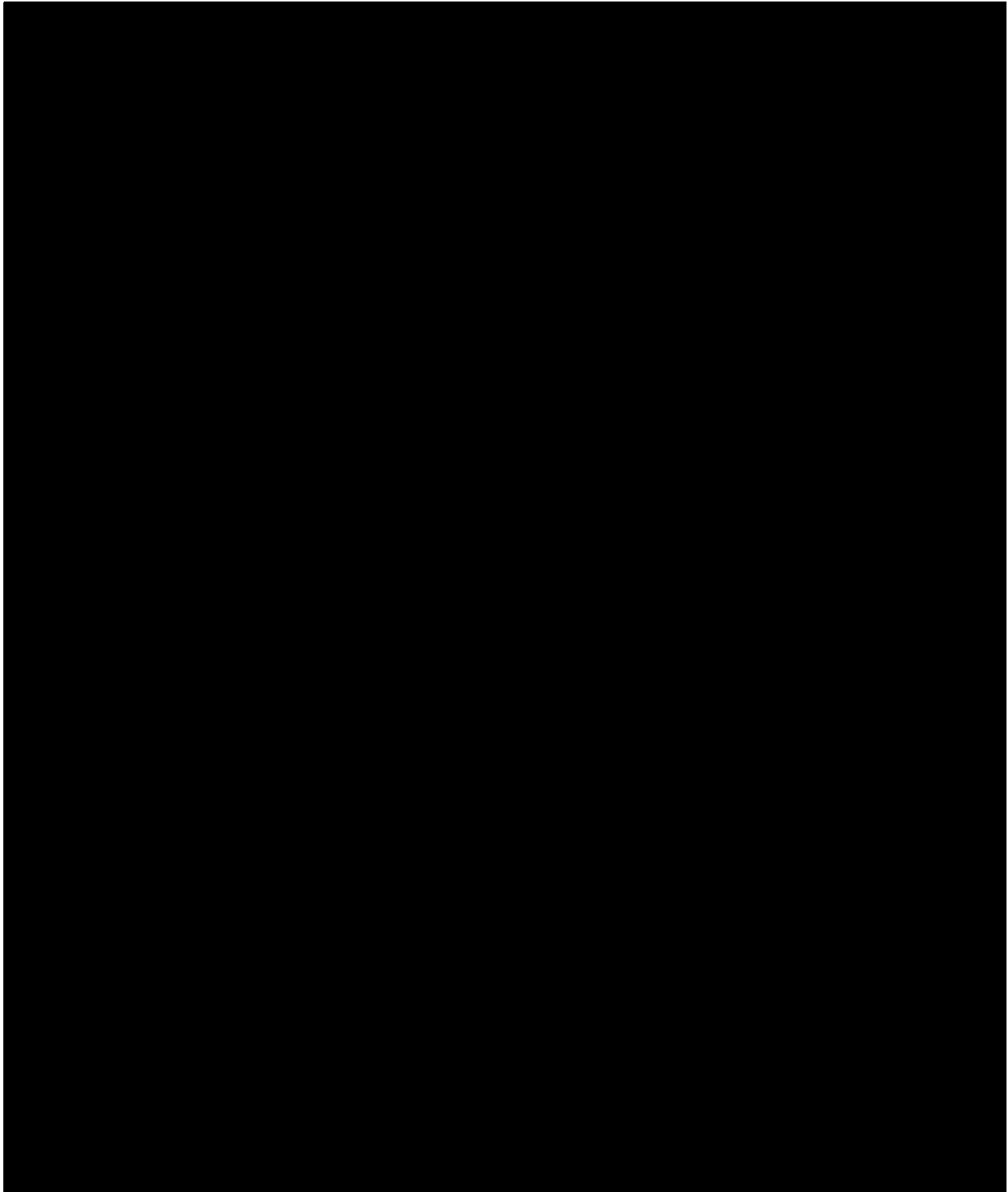
(a) Purchaser's review and approval of written documentation satisfactory to Purchaser, confirming that Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and that the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller. Seller shall deliver such written documentation to Purchaser within five (5) days after the Effective Date.

(b) Purchaser's review and approval of the Due Diligence Items, including, but not limited to, any and all tenant leases (including oil, gas or mineral rights), if any, and all amendments thereto (collectively, the "Leases"); all contracts pertaining to the use and operation of the Property, if any (collectively, the "Service Contracts"); permits and entitlements; any materials or reports concerning the physical condition of the Property; any records of the use of Hazardous Materials (defined below) on the Property; and such other documents and information reasonably requested by Purchaser, including, but not limited to, any existing Phase I and/or II Environmental Site Assessment, geotechnical studies, biological studies, cultural resource studies, wetland studies, drainage studies and/or plans, improvement plans, building plans, traffic studies, water supply assessment studies, and crop planting and harvesting schedules, if any. All Leases and Service Contracts shall be terminated by Seller [REDACTED] effective prior to the Closing.

(c) Purchaser's review and approval of the condition of title to the Property. Purchaser shall obtain a current preliminary title report or a commitment for title insurance with respect to all of the Land, issued by Old Republic National Title Insurance Company, or a title company selected by Purchaser (the "Title Company"), accompanied by copies of all documents referred to in the report or commitment (collectively, the "Preliminary Report"). Seller shall deliver to Purchaser [REDACTED] within five (5) days after the Effective Date, the following:

(i) copies of all existing and proposed easements, covenants, restrictions, agreements or other documents which affect title to the Property that are actually known by Seller and are not recorded (and, within five (5) days after Purchaser's delivery to Seller of a copy of the Preliminary Report, any such documents that are actually known by Seller that may be recorded, but that are not disclosed by the Preliminary Report) (collectively, "Undisclosed Encumbrances"), including but not limited to any existing above ground or below ground irrigation pipes, water wells, pumps, gas lines, and electrical service lines serving the Property (and if no such documents exist, a written explanation of or map showing the existence of any such items); and

(ii) the most recent survey of the Property, if available. Purchaser shall have the right, at its cost and expense, to obtain a new survey of the Property and/or an update of any survey provided by Seller. Any surveys provided by Seller, together with any new or updated survey obtained by Purchaser, are collectively referred to herein as the "Survey".



(d) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of all aspects of the Property, including, without limitation, all of the Due Diligence Items, and the results of Purchaser's examinations, inspections, testing, and or investigations of the Property and the Due Diligence Items (collectively, "Purchaser's Due Diligence

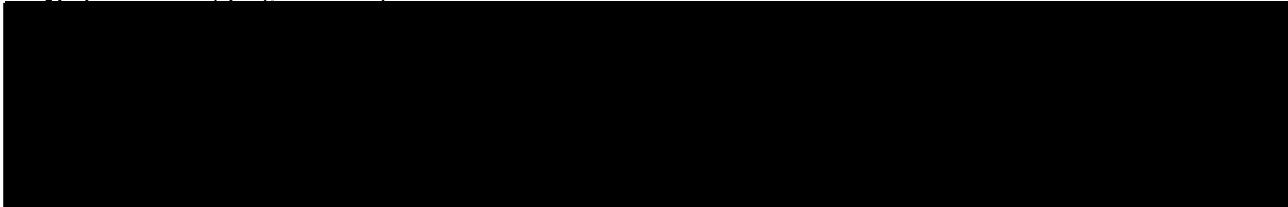
Investigations"). Purchaser's Due Diligence Investigations may include an examination for the presence or absence of Hazardous Materials (as defined below) on, under or in the Property including, without limitation, the review and approval of any Phase I or Phase II environmental report, geotechnical study, biological study, cultural resource study, wetland study, drainage study and/or plans, improvement plans, building plans, traffic study, water supply assessment study, and crop planting and harvesting schedule which Purchaser may obtain, [REDACTED] during the Due Diligence Period. In the event Purchaser wishes to conduct a Phase II environmental audit report, at Purchaser's [REDACTED] Seller agrees to such testing on the Property.

(e) Purchaser's review and approval, in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of reports by consultants, engineers and/or architects selected by Purchaser to inspect the Property.

(f) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of evidence satisfactory to Purchaser and its legal counsel and consultants that the Property and Purchaser's proposed development thereof complies with all applicable zoning, subdivision, land use, redevelopment, energy, environmental, building and other governmental requirements applicable to the use, maintenance and occupancy of the Property and the proposed development thereof.

(g) Written documentation satisfactory to Purchaser, confirming that all state and local real property and business taxes pertaining to the Property (including, without limitation, all corporate, sales, and withholding taxes) have been paid in full by Seller.

8. Conditions to Closing. The following conditions are precedent to the applicable party's obligation to complete the Closing (the "Conditions Precedent"). If any Conditions Precedent are not satisfied as of the Closing Date as determined by the party for whom the Condition Precedent is in favor



(a) The Conditions Precedent in favor of Purchaser shall be the following:

(i) This Agreement shall not have terminated pursuant to any other provision hereof, including, without limitation, pursuant to Sections 2 or 9.

(ii) Purchaser shall have a fully executed agreement for the sale of power based on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(iii) Purchaser shall have determined, in its sole and absolute discretion, that financing can be obtained to purchase the Property and develop a solar power facility thereon in an amount and on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(iv) The physical condition of the Property shall be substantially the same on the day of Closing as on the Effective Date, loss by casualty excepted, and free and clear of all personal

property, motor homes, junk, trash, sheds and similar property; and, as of the day of the Closing, there shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after the Closing could or would materially adversely affect the value of the Property or Purchaser's ability to develop the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the re-designation or other modification of the zoning classification of the Property or any portion thereof, which after the Closing would materially adversely affect the value of the Property or the ability of Purchaser to develop the Property in the manner contemplated by Purchaser.

(v) All Leases and Service Contracts shall be terminated effective on or before the Closing, and Seller shall deliver exclusive possession of the Property to Purchaser and shall convey good and marketable fee simple title to the Property to Purchaser by good and sufficient Special Warranty Deed in the form of **Exhibit C** attached hereto (the "Deed") free and clear of all liens and encumbrances and subject to no exceptions other than the following:

(1) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent,

(2) Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Purchaser in writing prior to or as of the Closing, and

(3) All exceptions to title contained or disclosed in the Preliminary Report and Survey other than Title Objections identified (including objections set forth in any Gap Notice) and not thereafter waived by Purchaser.

(vi) The Title Company shall be irrevocably and unconditionally committed to issue to Purchaser, an ALTA extended coverage Owner's policy of title insurance covering the Property, in the full amount of the Purchase Price, subject only to those encumbrances previously approved by Purchaser and containing such endorsements as Purchaser may reasonably request.

(vii) All of Seller's representations and warranties contained in Section 11 herein shall be true and correct on the Closing Date.

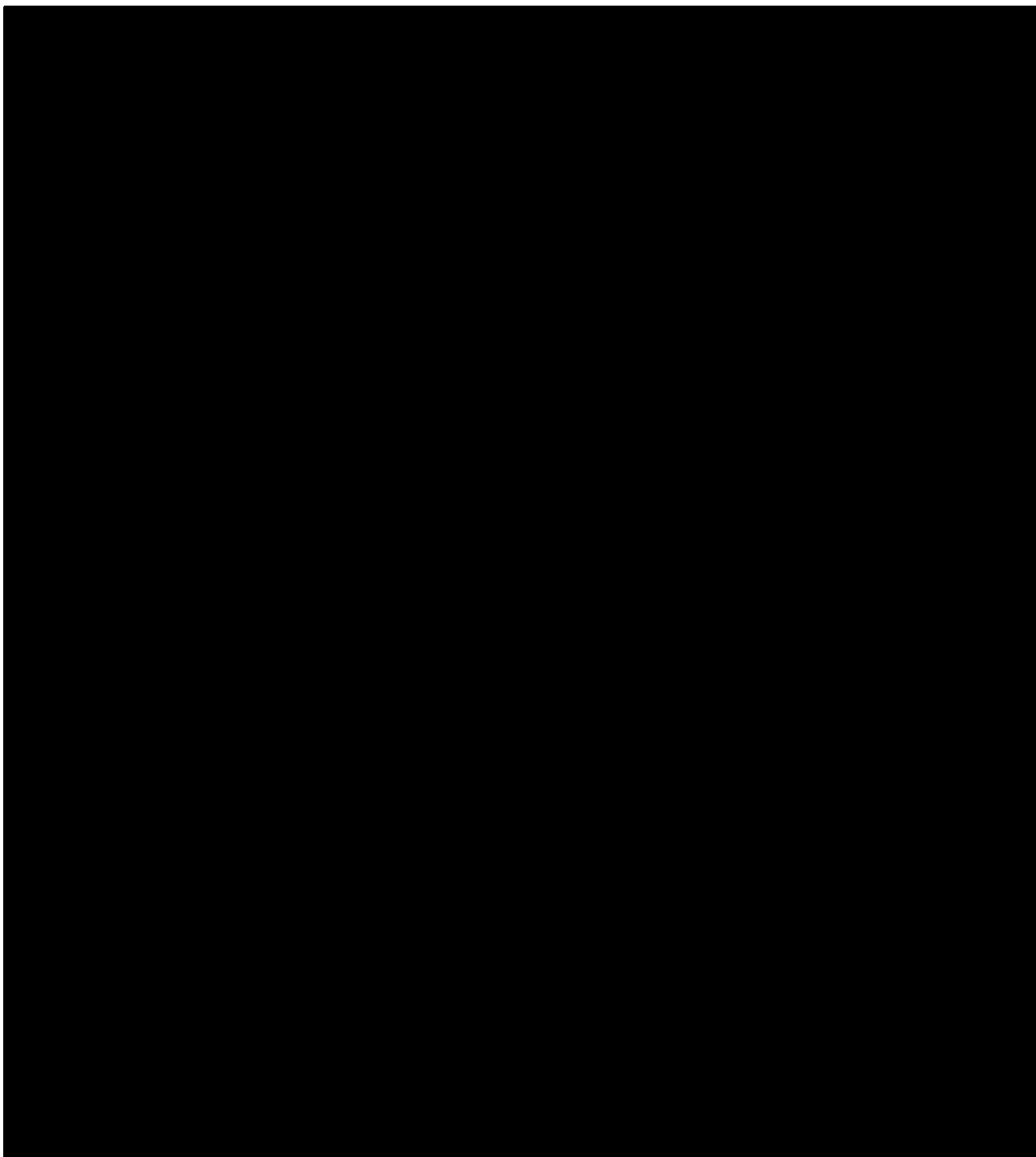
(viii) Seller has delivered into escrow all deliverables required in accordance with Section 10(b) below.

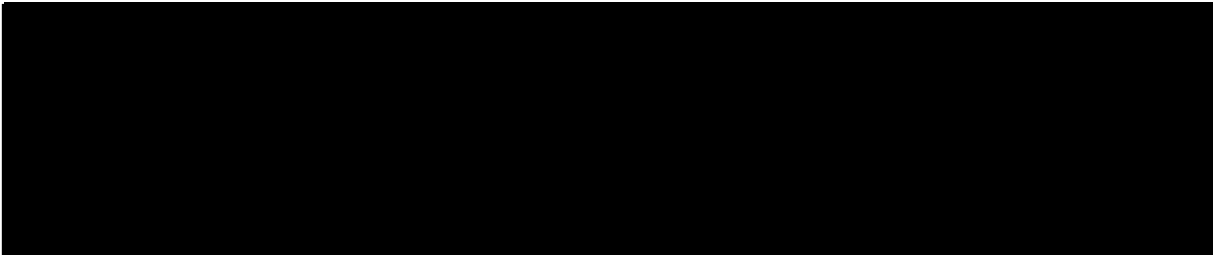
(ix) Seller is not otherwise in default of this Agreement.

(x) The Land constitutes a separate legal parcel in accordance with all applicable laws. This legal parcel condition is not subject to waiver by the parties.

terminate this Agreement Seller shall immediately return to Purchaser any Option Consideration previously paid by Purchaser.

(b) The Conditions Precedent in favor of Seller shall be the following: There is no default by Purchaser under the Spencer and Rebecca Rapp Option; provided, however, that if this Condition Precedent is not satisfied, Seller shall have the right to waive this Condition Precedent and proceed to the Closing.





10. Closing and Escrow.

(a) The parties shall conduct an escrow Closing pursuant to this Section 10 on a date to be selected by Purchaser, which date shall be specified in Purchaser's notice exercising the Option pursuant to Section 4, [REDACTED] after Purchaser delivers such notice, or on such other date as Purchaser and Seller may agree in writing in their sole and absolute discretion (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser. In the event the Closing does not occur on or before the Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the respective party any items previously delivered by such party to the Title Company. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

(b) At or before the Closing, Seller shall deliver to the Title Company (for delivery to Purchaser upon the Closing) the following:

(i) a duly executed and acknowledged Deed in the form attached hereto as Exhibit C;

(ii) all material documents, agreements and correspondence and items relating to the ownership, operation, maintenance or management of the Property;

(iii) a duly executed bill of sale agreement transferring title to all of Seller's interest in any personal property located on the Property as of Closing in a form reasonably acceptable to Seller and Purchaser (the "Bill of Sale") (provided, however, that neither the delivery by Seller, nor the acceptance by Purchaser, of this Bill of Sale obviates Seller's obligation to deliver the Property free and clear of all personal property at Closing;

(iv) a duly executed assignment and assumption agreement assigning Seller's interest in the Intangible Personal Property in a form reasonably acceptable to Seller and Purchaser (the "Assignment of Intangibles");

(v) evidence that all Service Contracts and Leases have been terminated;

(vi) a certificate, dated as of the date of Closing certifying that the representations and warranties set forth in Section 11 are true and correct as of the Closing Date;

(vii) a certificate of non-foreign status in accordance with the requirements of Internal Revenue Code Section 1445, as amended; and

(viii) any other closing documents reasonably requested by the Title Company or Purchaser, including an owner's affidavit in a form reasonably requested by the Title Company. Purchaser may, in its sole and exclusive discretion, waive compliance on Seller's part under any of the foregoing items by an instrument in writing.

(c) At or before the Closing, Purchaser shall deliver to the Title Company (for delivery to Seller upon the Closing) the following:

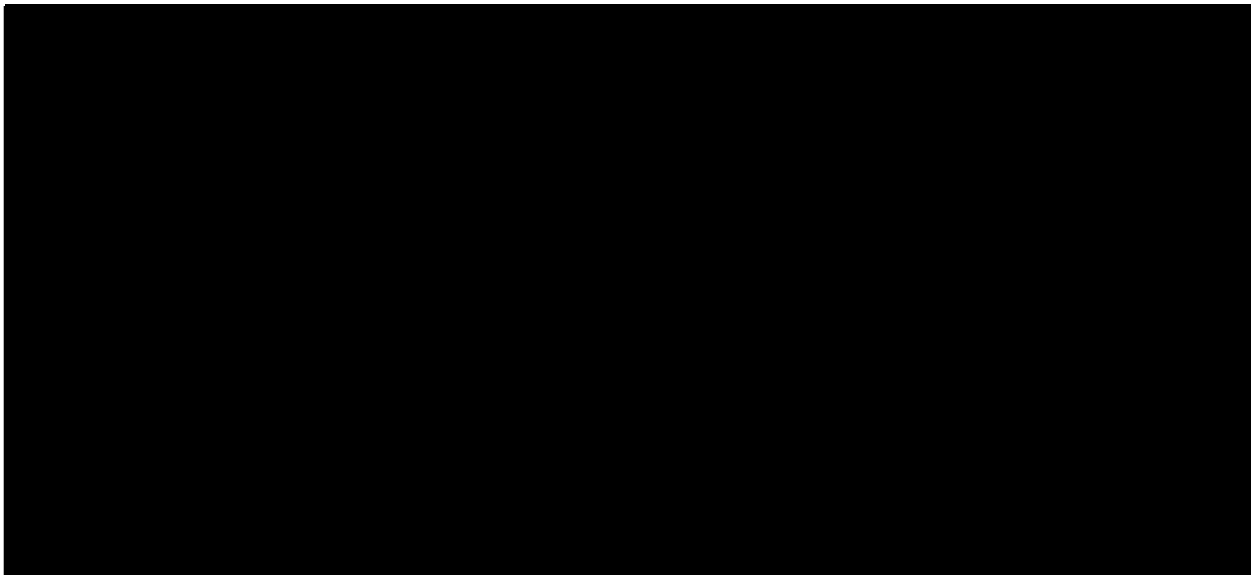
(i) the balance of the Purchase Price subject to adjustment as set forth in Section 3 and this Section 10 in cash or other immediately available funds, subject to prorations and adjustments as set forth herein;

(ii) the Assignment of Intangibles duly executed by Purchaser; and

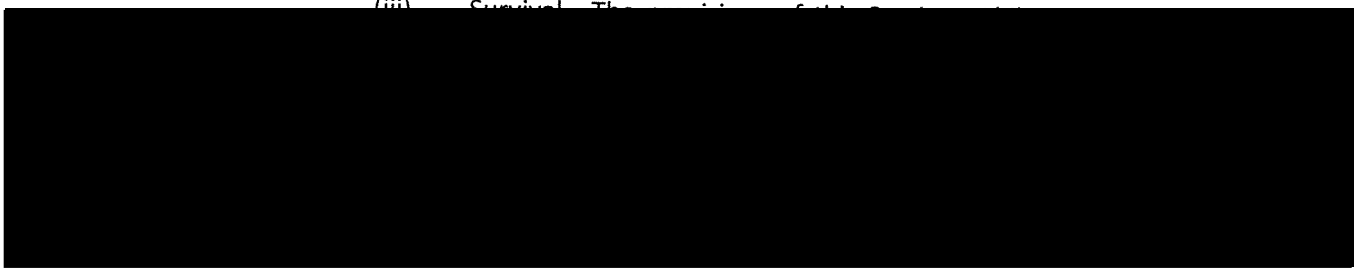
(iii) any customary and/or reasonable closing documents requested by the Title Company.

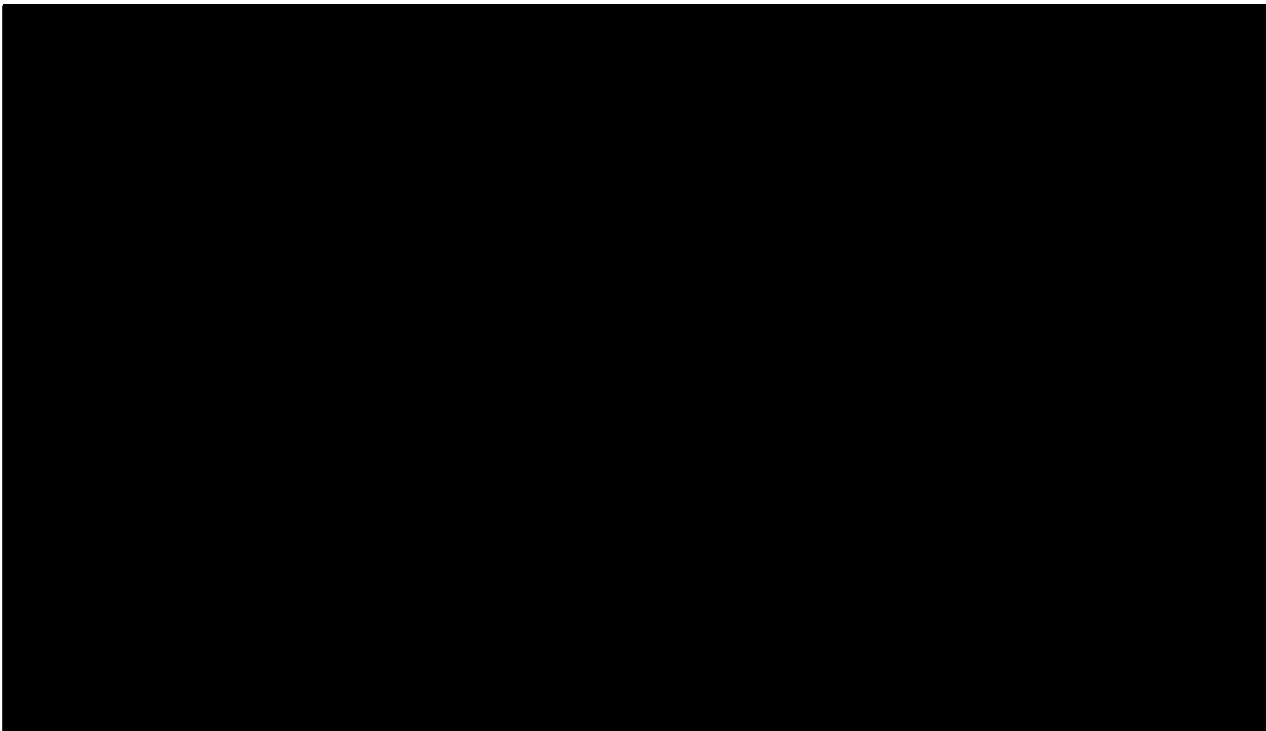
(d) The following are to be apportioned as of the Closing Date as follows, with Purchaser being deemed to be the owner of the Property during the entire day on which the Closing takes place and being entitled to receive all income of the Property, and being obligated to pay all expenses of the Property, with respect to such day:

(i) Utility Charges. Seller shall be responsible for the cost of all utilities used, if any, prior to the Closing Date.



(iii) Survival. The provisions of this Section shall survive the termination or expiration of this Agreement.





11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has not, and as of the Closing, Seller shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not, and as of the Closing shall not be, a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement (i) has been duly authorized, executed and delivered by Seller, and (ii) does not, and as of the Closing shall not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) There is no litigation pending or threatened with respect to the Property or the transactions contemplated hereby or that would impair Seller's ability to perform under this Agreement.

(e) There are no violations of any applicable environmental, zoning or land use law, or any other applicable local, state or federal law or regulation relating to the Property, including, without limitation, the Americans with Disabilities Act of 1990 and Seller is not aware of any proposed or pending changes in zoning or proposed relocation, reconfiguration or other change with respect to any street or road affecting the Property, if any.

(f) There are no condemnation proceedings pending or threatened that would result in the taking of any portion of the Property. Seller has not received any written notice of any special assessment proceedings affecting the Property that are not disclosed on the Preliminary Report.

(g) The parties comprising Seller under this Agreement are the sole owners of the Property and Seller holds good and marketable fee simple title to the Property according to laws of the Commonwealth where the Property is located.

(h) The Land constitutes a separate legal parcel (or separate legal parcels) in accordance with all applicable laws.

(i) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(j) The Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement are, or when delivered will be, all of the relevant documents, materials, reports and other items pertaining to the condition and operation of the Property, will be true, correct and complete copies, and will be in full force and effect, without default by any party and without any right of set-off except as disclosed in writing at the time of such delivery.

(k) Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller.

(l) To the best of Seller's knowledge, Hazardous Materials have not at any time been generated, used or stored on, or transported to or from, or released or disposed of on the Property in violation of environmental laws and restrictions, and Seller has not used Hazardous Materials on the Property for purposes other than (i) as necessary to operate and maintain the Property and (ii) in compliance with all environmental laws and restrictions. There are not now and never have been any underground storage tanks located on or under the Property and there is no asbestos contained in, forming part of, or contaminating any part of the Property. For the purposes hereof, "Hazardous Materials" shall mean (i) any petroleum or petroleum distillates and products, flammable explosives, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls in any concentrations, and radon gas; (ii) any chemicals, materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any environmental laws and restrictions; and (iii) any other chemical, material, substance, or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority. Notwithstanding the foregoing, Seller represents that Seller has operated vehicles, tractors and other equipment on the Property in connection with Seller's farming operations on the Property and Purchaser acknowledges that such vehicles, tractors and equipment require the use of de minimis quantities of petroleum products; Seller represents and warrants that its farming operations on the Property are being operated in a commercially reasonable manner and in compliance with all applicable laws.

[REDACTED]

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a duly organized and validly existing limited liability company in good standing under the laws of the Commonwealth in which it was formed; this Agreement and all documents executed by Purchaser which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Purchaser is subject.

(b) Purchaser has not, and as of the Closing, Purchaser shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Purchaser's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

All representations and warranties made by Purchaser herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing [REDACTED]

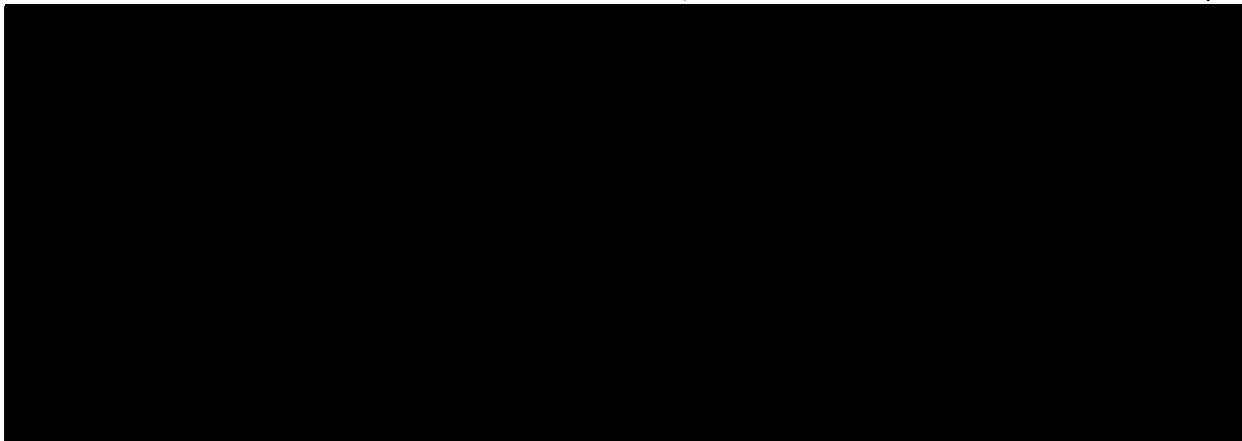
13. Access; Indemnity; Possession.

(a) Access. Commencing on the Original Agreement Date and through the Closing Date or the earlier termination of this Agreement, Seller shall, and shall cause Seller's tenants, if any, to afford authorized representatives of Purchaser reasonable access to the Property for purposes of satisfying Purchaser with respect to the representations, warranties and covenants of Seller contained herein and with respect to satisfaction of any Diligence Period Condition or any Condition Precedent, including, without limitation, to conduct Purchaser's Due Diligence Investigations, measurement of meteorological characteristics of the Property which may require the installation of a meteorological station, conducting of geotechnical tests and borings and performing a Phase I or Phase II [REDACTED]

[REDACTED]

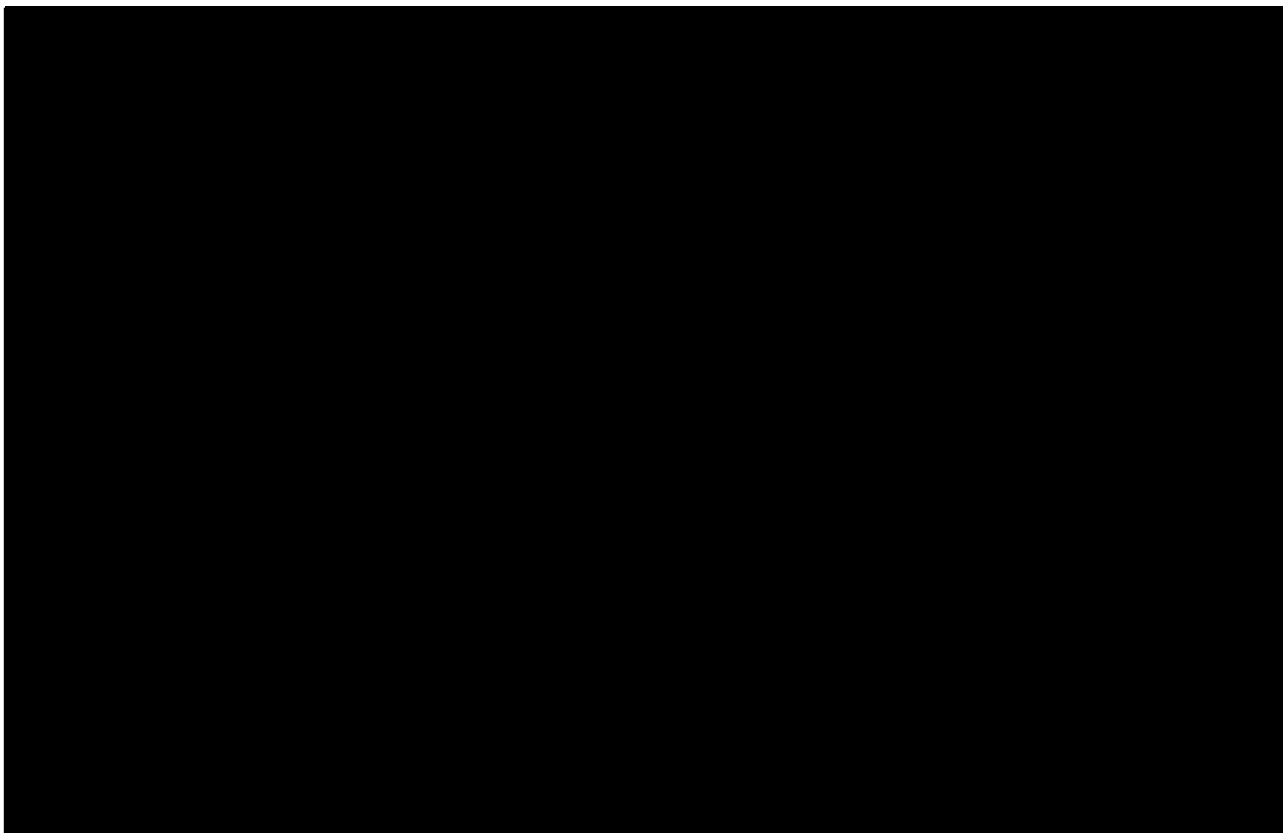
Closing, or in the event that the Closing does not occur, the termination of this Agreement, in each case, for twelve (12) months.

(b) Seller's Continued Use of Property. During the Option Term, and up to the Closing Date, subject to Purchaser's rights set forth in this Agreement, Seller may continue to use or lease the Property. All existing Leases, shall be terminated by Seller [REDACTED] effective prior to the Closing and Seller shall deliver possession of the Property free and clear of any interests or rights of tenants, licensees, or other occupants in possession. Seller shall use commercially



(c) Intentionally Omitted.

(d) Possession. Possession of the Property shall be delivered to Purchaser at 5:00 p.m. Eastern Standard Time on the Closing Date.

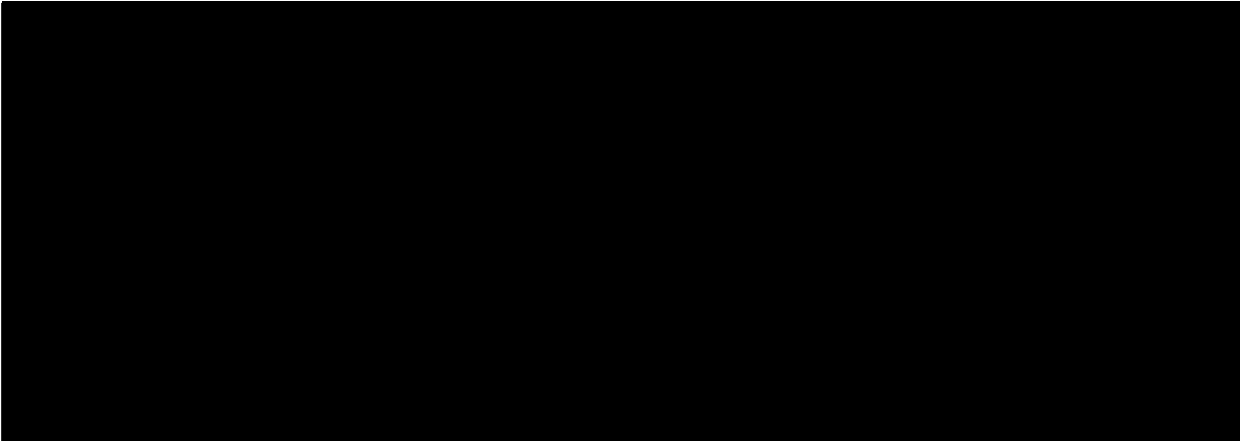


14. Seller Covenants.

(a) Seller is a duly organized and validly existing limited liability company in good standing under the laws of the Commonwealth in which it was formed; this Agreement and all documents executed by Seller which are to be delivered to Purchaser at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Seller, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Seller is subject.

(b) At the time of the Closing, Seller shall cause to be paid in full all obligations under any outstanding written or oral contracts made by Seller for any improvements to the Property, and Seller shall cause to be discharged all mechanics' and materialmen's liens arising from any labor or materials furnished to the Property prior to the time of the Closing.

(c) Between the Original Agreement Date and the Closing, to the extent Seller has any knowledge thereof, Seller shall promptly notify Purchaser of the following items relating to the Property: (i) any condemnation, environmental, zoning or other land-use regulation proceedings; (ii) any notices of violations of any laws; (iii) any litigation relating to the Property or that arises out of the ownership of the Property or affects Seller's ability to perform under this Agreement; and (iv) the termination, modification or default under any Leases or Service Contracts.



(f) Seller shall remove the Property from the market, if listed, and shall not market the Property for sale during the term of this Agreement.

(g) Purchaser shall have the right, at Purchaser's expense, to apply for, change and/or obtain zoning changes, general plan amendments, land use entitlements, planning approvals, permits, tax classifications, property tax exemptions, subdivision and/or lot line adjustment approvals affecting the Property consistent with Purchaser's intended use of the Property. Seller shall cooperate with Purchaser in Purchaser's efforts to obtain such approvals by executing such documents and taking such actions as are reasonably necessary to obtain such approvals. Seller agrees that it shall not contest, challenge or publicly or privately dispute, verbally or in writing, Purchaser's efforts to obtain any such approvals. If Purchaser fails to exercise the Option to purchase the Property for any reason

other than a Seller Default, Purchaser shall be obligated to pay Seller an additional sum of Ten Thousand Dollars (\$10,000.00) within thirty (30) days of termination of the Agreement for future tax liability (the "Termination Payment").

15. Miscellaneous.

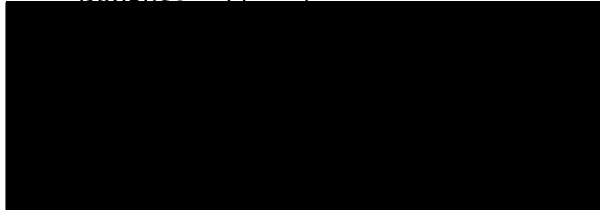
(a) Assignment. Except as provided below, Purchaser may assign its rights under this Agreement only upon the prior written consent of Seller, which consent may not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Purchaser may assign its rights under this Agreement without Seller's consent (i) to an affiliate of Purchaser, (ii) to any person or entity succeeding to all or substantially all of the assets of Purchaser, or (iii) as security in connection with any financing transaction entered into by Purchaser.

(b) Binding on Successors. This Agreement shall be binding not only upon the parties but also upon their respective heirs, executors, personal representatives, assigns, and other successors in interest.

(c) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed given by (i) electronic mail at the email address set forth below (so long as any email notice contains the following in the Subject line in all caps: "OFFICIAL NOTICE UNDER DONOHOO RAPP PROPERTIES, L.L.C. PURCHASE OPTION – FLEMING COUNTY, KY"), (ii) first class mail, postage prepaid, registered or certified, return receipt requested, or (iii) nationally recognized overnight courier, addressed to the party to whom notice is to be given at the address set forth below and naming the individuals hereinafter set forth (as applicable). Any notice, demand, and other communications hereunder shall be deemed received upon actual receipt or refusal thereof. Either party may change its address and/or the names of such individuals for purposes hereof by giving the other party notice of the new address in the manner described herein.

IF TO SELLER:

Donohoo Rapp Properties, L.L.C.



IF TO PURCHASER: Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Attn: John Livingston

or such other address as either party may from time to time specify in writing to the other.

(d) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any broker or finder makes a claim for a commission or finder's fee based upon any contact, dealings or communication, the party whose conduct is the basis for the broker or finder making its claim shall indemnify, defend and hold harmless the other party against and from any commission, fee, liability, damage, cost and expense, including without limitation attorneys' fees, arising out of or resulting from any such claim. Seller shall be responsible for all commission payments or finder's fees in connection with the sale of the Property. The provisions of this Section 15(d) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement, in each case, for twelve (12) months.

(e) Recording and Subordination. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located (the "Memorandum"). If this Agreement is terminated, Purchaser agrees to execute and record a termination of the Memorandum in the form attached hereto as Exhibit D-1. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall obtain from the holder of any mortgage or deed of trust liens or any other monetary lien encumbering the Property a reasonable subordination agreement whereby the holder of such lien agrees that its lien is subordinate to Purchaser's option.

(f) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

(h) Merger of Prior Agreements. This Agreement and the exhibits and schedules hereto, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

(i) Time of the Essence. Time is of the essence of this Agreement; provided, however, should the date for payment or performance required under this Agreement fall on a non-business day (i.e., Saturday, Sunday or any other day on which national banks in California are not open for business), then the date required for payment or performance under this Agreement shall be extended to the first business day following the non-business day on which such payment or performance was required.

(j) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(k) Confidentiality. Seller agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated

hereby; provided, however, that Seller, its agents and representatives may disclose such information and data (a) to its accountants, attorneys, other advisors and Seller's Affiliate in connection with the transactions contemplated by this Agreement (collectively "Representatives") to the extent that such Representatives reasonably need to know such information and data in order to assist, and perform services on behalf of, Seller, but Seller shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; and (c) in connection with any litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. The provisions of this Section 15(k) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement. Notwithstanding the provisions of this Section 15(k), the recording of the memorandum of this Agreement as contemplated by Section 15(e) is expressly permitted.

(l) Attorneys' Fees. The prevailing party in any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Agreement or for the interpretation of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

(m) Counterparts and Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Signatures required under this Agreement may be transmitted by facsimile or electronic mail and, once received by the party to the Agreement to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

(n) Removal of Structures. Notwithstanding any other provision of this Agreement, Seller shall have the right to remove at its cost any structures on the Property prior to Closing Date.

(o) Execution Contingency. As a condition precedent to the effectiveness of this Agreement, Purchaser shall execute the Spencer and Rebecca Rapp Option with Seller's Affiliate prior to the Effective Date of this Agreement or within five (5) business days after the Effective Date of this Agreement. If Purchaser fails to execute such Spencer and Rebecca Rapp Option with Seller's Affiliate in accordance with the terms of this Section, this Agreement shall terminate and neither party shall have any further rights or obligations under this Agreement.

(p) Original Option Agreement.

(i) Purchaser and Seller acknowledge that this Agreement amends and restates the Original Option Agreement. Seller represents and warrants to Purchaser that, as of the date hereof: (1) the Original Option Agreement was in full force and effect and had been terminated or further modified except pursuant to this Agreement; (2) there exist no defaults under the Original Option Agreement or facts or circumstances which might give rise to a default under the Original Option Agreement; (3) all representations in Section 11 of the Original Option Agreement are true and correct as of the date of this Agreement; and (4) Seller has not received a notice of exercise of Purchaser's option to purchase the Option Property.

(ii) Seller has not given to Purchaser or received from Purchaser any notice of default. Seller is not in default under the Agreement and is not presently aware of any breach or default

of Purchaser under the Agreement. Seller is not presently aware of any fact or circumstance that, with the passage of time or the giving of notice, or both, would constitute a breach or default under the Agreement, or that would entitle Seller to any claim, counterclaim, offset or defense against Purchaser in respect of the Agreement. There are no legal proceedings commenced or threatened against Purchaser by Seller. To Seller's knowledge, there are no legal proceedings commenced or threatened against Seller by Purchaser.


(q) In consideration for Seller's execution of this Agreement, Purchaser hereby agrees to pay to Seller the amount of Twenty-Five Thousand Dollars (\$25,000.00) (the "**Amendment Payment**"). The Amendment Payment shall be payable to Seller within thirty (30) days after the Effective Date. The Amendment Payment shall not be credited toward the Purchase Price at Closing if Purchaser exercises the Option and shall otherwise be non-refundable except as provided in Section 9(b).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: 

Name: KEVIN FELT

Its: MANAGER

Date: _____, 202_

SELLER:

DONOHOO RAPP PROPERTIES, L.L.C.
a Kentucky limited liability company

By: 

Name: DONOVAN DONOHOO JR

Its: Member

Date: March 16, 2023

By: 

Name: SPENCER RAPP

Its: Member

Date: March 16, 2023

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Property located in Fleming County, Kentucky, commonly identified as APN: 059-00-00-010.00 and in the location more particularly described as follows:

TRACT 1:

Lying and being in Fleming County, Kentucky, and described and bounded as follows, to-wit:

BEGINNING in center of Wilson Run turnpike, and corner to Jordan; thence with the Jordan line S 50¼ E 10.6 rods to a post; thence S 62 E 4 rods; S 57 E 4 rods; S 21 ½ E 5.84 rods S 30½ E 8.44 rods; S 44½ E 6.4 S 33¼ E 7.68 rods to an elm on south side of branch; thence crossing branch N 75½ E 196 rods to an elm; thence S 46.75 E 20.8 rods to a post; thence S 65 E 16.65 rods to a thorn tree; thence S 79.75 E 9.04 rods to a post; corner to Jordan, and W.D. Dalton; thence with the Dalton line N 15 E 0.18 rods; thence S 76½ E 12.28 rods to a post; thence S 82½ E 48.32 rods to an anchor post; thence S 70 E 105.8 rods to a post, corner to Dalton in C.R. Bishops line; thence with the Bishop lines N 7 E 22.12 rods to a post; thence S 81.75 E 42.6 rods to a post in Bishops line, and corner to Mrs. Dorsey; thence with her line N 141/2 W 156.56 rods to a post; thence N 86¼ W 92.24 rods to a post; corner to John L. Zacharys land; thence with his lines S 6 W 30.92 rods; S 10½ W 20.6 rods; S 11 W 19.12 rods to a post; thence S 33½ W 10.6 rods to a post at roadway; thence down same N 57.75 W 4.6 rods; N 91½ W 18 rods; N 75½ W 4 rods; N 83.75 W 33.68 rods; N 75½ W 22.72 rods; N 78 W 21.92 rods; N 70 W 27.88 rods to center of Wilson Run road; thence down same S 421/2 W 2.68 rods; S 85 W 2 rods to the beginning, containing 127 acres 48 square rods.

Being the same property conveyed to William B. Gray and Eunice Gray, from Alice Saunders, widow, et al., by deed dated February 1950, and recorded in Deed Book 107, Page 465, Fleming County Clerk's Office. William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

TRACT 2:

A certain tract of land lying and being in Fleming County, Kentucky, and Beginning in the center of the Wilson Run Turnpike and corner to Avery Newman's tract; thence with the Newman's lines, S 70° East 27.68 rods; South 76° East 21.92 rods; South 75½° East 22.72 rods; thence South 83¾° East 33.68 rods; South 75½° East 4 rods; South 81½° East 18 rods to a gate post; thence South 57¾° East 4.6 rods to a post; thence leaving roadway, North 33½° East 10.6 rods; North 11° East 19.12 rods; North 10 ½° East 20.6 rods; North 6° East 30.92 rods to a post, corner to Newman; thence North 86¼° West 96.64 rods to a post; thence North 56° West 7.2 rods to an elm; thence South 400 West 4.52 rods to a wild cherry; thence South 86½° West 1.76 rods to a locust; thence North 85½° West 11.76 rods to center of Wilson Run Road; thence down the same its approximate center, South 14° West 11.64 rods; South 32½° West 2 rods; South 37¼° West 10 rods; South 29½° West 18 rods; South 23½° West 21.32 rods to the Beginning, **CONTAINING** 56 Acres, more or less. Being the same property conveyed to W. B. Gray and Eunice Gray, his wife, from Estle Newsome and Verna Lucille

Newsome, his wife, by deed dated December 24, 1957, and recorded in Deed Book 115, Page 24, Fleming County Clerk's Office, William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

TRACT 3:

A certain tract of land lying and being in Fleming County, Kentucky and more particularly described as follows:

Beginning in the fence line of Second Parties farm corner to Harold Himes and wife and the property conveyed by this deed; thence in a general Southerly direction following the Himes property line to a point corner to Betty Hanun's property; thence at an approximate right angle following the property line of Betty Hamm and Purnell and First Parties other property which is not being conveyed, to Don Hamm's property line; thence in a general Northerly direction following Don Hamm's property line to Second Parties other property; thence following Second Parties other property line following a general Westerly and Northwesterly course to the beginning, containing 55 acres, more or less.

Being the same property conveyed to William B. Gray and Eunice Gray, his wife, from W. Bruce Gardner and Geneva Gardner, his wife, by deed dated March 24, 1979, and recorded in Deed Book 148, Page 241, Fleming County Clerk's Office.

William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

Tax ID No.: 059-00-00-010.00

EXHIBIT A

DEPICTION OF LAND

Property located in Fleming County, Kentucky, commonly identified as APN: 059-00-00-010.00 and in the location more particularly depicted as follows:

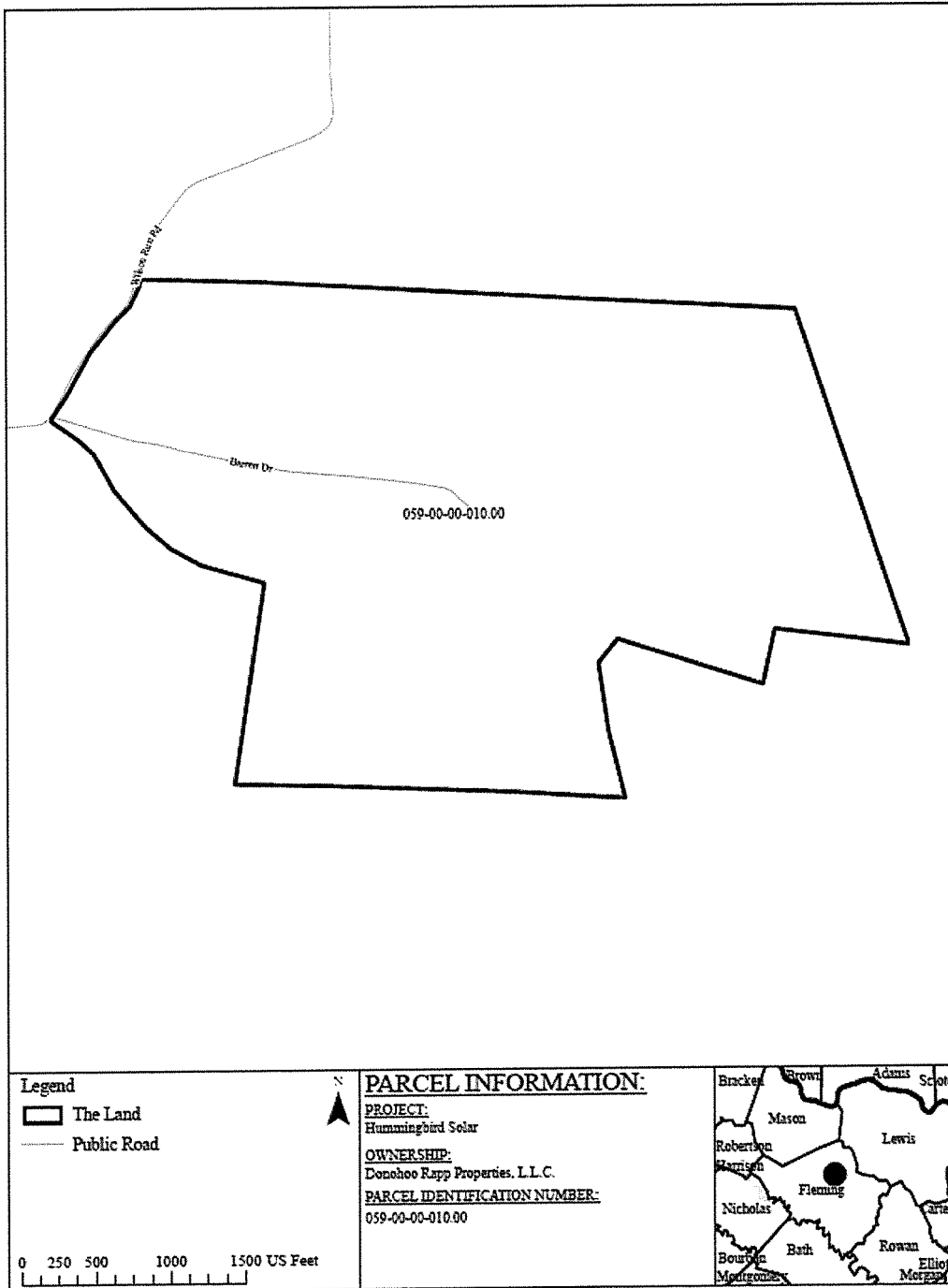


EXHIBIT B

TERMINATION AGREEMENT
AMENDED AND RESTATED OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY

APN [_____], [_____] COUNTY, [_____]

THIS TERMINATION AGREEMENT (this "Termination Agreement"), dated as of [_____], 202__ (the "Termination Date"), is entered into by and between [_____], a [_____] ("Seller"), and Hummingbird Solar LLC, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to that certain Amended and Restated Option Agreement for the Purchase and Sale of Real Property, dated as of [_____], 202__ (the "Option Agreement"), pursuant to which Seller granted Purchaser an exclusive and irrevocable option to purchase from Seller certain real property located in [_____] County, Kentucky (APN: _____) on the terms and conditions set forth in the Option Agreement.

B. Pursuant to Section 2(b) of the Option Agreement, Purchaser has the right to terminate the Option Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

C. Purchaser has elected to terminate the Option Agreement pursuant to Section 2(b) thereof, and Purchaser and Seller desire to enter into this Termination Agreement in order to evidence such termination and to release one another from their respective obligations thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereby agree as follows:

1. Defined Terms. Initially capitalized terms used but not defined herein have the meanings set forth in the Option Agreement.

2. Termination of the Option Agreement. Purchaser has terminated the Option Agreement by notice dated [_____], 202__, and Purchaser and Seller hereby agree that the Option Agreement has terminated without liability to either party and is of no further force or effect.

3. Release of Liability. Except as otherwise provided herein, Purchaser and Seller are fully and unconditionally released and discharged from their respective obligations under the Option Agreement, whether arising before or after the termination and including with respect to the payment of any consideration thereunder.

4. Surrender of Property. Purchaser acknowledges its release and surrender to Seller of all of any right, title and interest in and to the Property and hereby agrees to vacate the Property.

5. Successors and Assigns. This Termination Agreement shall be binding upon and shall inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

6. Counterparts. This Termination Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties.

7. Governing Law. This Termination Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Kentucky.

8. Documentation. Each party shall execute and deliver such additional instruments, agreements, and documents and take such other actions as the other party may reasonably require in order to carry out the intent and purpose of this Termination Agreement.

9. Severability. If any term or provision of this Termination Agreement shall be held invalid or unenforceable, the remainder of this Termination Agreement shall not be affected.

10. No Third Party Beneficiaries. This Termination Agreement is solely for the benefit of Purchaser and Seller and their successors and permitted assigns and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Termination Agreement to be executed and delivered as of the day and year first written above.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

SELLER:

[_____]
a [_____]

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

RECORDING REQUESTED BY and
WHEN RECORDED RETURN IT
AND ALL TAX STATEMENTS TO:

c/o [____]
[mailing address]
Attention: [____]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made and entered into as of the ____ day of _____, _____, between (a) [____] ("Grantor") and having an address of _____, and (b) **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Grantee") and having an address of _____, which is the in care of address for Grantee to which tax bills may be sent.

WITNESSETH

For a total consideration of \$ _____, the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple with covenant of Special Warranty certain real property located in Fleming County, Kentucky and more particularly described on EXHIBIT A attached hereto and made a part hereof together with all right, title and interest in and to all improvements located thereon, and all air rights, development rights, mineral rights, water rights, entitlements, appurtenances, rights and privileges appertaining thereto, and all right, title and interest in, to and under adjoining streets, rights of way and easements (the "Property").

Grantor covenants (a) lawful seisin of the Property (b) full right and power to convey same, and (c) that the Property is free and clear of all liens and encumbrances by or in favor of any party claiming by, through or under Grantor except liens for real property taxes and assessments due and payable in _____ and thereafter, which Grantee assumes and agrees to pay. This conveyance is made subject to all (i) easements, restrictions and stipulations of record, and (ii) governmental laws, ordinances and regulations affecting the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Special Warranty Deed, certify that the consideration recited above is the full consideration paid by Grantee to Grantor for the Property.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor and Grantee duly executed this Deed as of the date first set forth above.

GRANTOR:

[]

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Special Warranty Deed, including the consideration certificate contained therein, was sworn to and acknowledged before me on _____, ____ by [].

Notary Public
My Commission Expires: _____

GRANTEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing consideration certificate was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar LLC, a Kentucky limited liability company, on behalf of such company

Notary Public
My Commission Expires: _____

This instrument was prepared by:

Susannah Ragab
Recurrent Energy
78 San Jacinto Blvd., Suite 750
Austin, Texas 78701

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

Property located in _____ County, _____, more particularly described as follows:

[TO BE ATTACHED]

EXHIBIT B TO SPECIAL WARRANTY DEED

PERMITTED EXCEPTIONS

[TO BE ATTACHED]

EXHIBIT D

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY and
WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
c/o Geenex Solar
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attention: Walter Putnam

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

This MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT (this "Memorandum") is dated and made as of _____, 202_, by and between [_____] ("Owner"), and Hummingbird Solar LLC, a Kentucky limited liability company ("Optionee").

WHEREAS:

A. Owner owns the real property more particularly described and depicted on Exhibit A attached hereto, which by this reference is incorporated herein (the "Property").

B. Owner and Optionee entered into that certain Option Agreement for the Purchase and Sale of Real Property dated as of February 12, 2020 (the "Original Option Agreement Date") (the "Original Option Agreement"), to provide an option in favor of Optionee to purchase all of the Property according to the terms and conditions contained therein.

C. Owner and Optionee desiring to amend and restate the Original Option Agreement have entered into that certain Amended and Restated Option Agreement for the Purchase and Sale of Real Property dated as of _____, 202_ (the "Option Agreement"), which is incorporated herein by reference as though fully set forth herein, to amend the Original Option Agreement. The consideration for the Option Agreement is included therein.

D. The Option Term is effective through December 31, 2025.

Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Original

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, a Notary Public in and for said state, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by his or her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State

Option Agreement and the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to purchase all of the Property on the terms and conditions set forth in the Option Agreement. All of the terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Option Agreement. Should there be any inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall prevail.

This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto.

[Remainder of page intentionally left blank; signature page follows.]

EXHIBIT A TO MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

LEGAL DESCRIPTION OF THE PROPERTY

Property located in Fleming County, Kentucky, commonly identified as APN: 059-00-00-010.00 and in the location more particularly described as follows:

TRACT 1:

Lying and being in Fleming County, Kentucky, and described and bounded as follows, to-wit:

BEGINNING in center of Wilson Run turnpike, and corner to Jordan; thence with the Jordan line S 50½ E 10.6 rods to a post; thence S 62 E 4 rods; S 57 E 4 rods; S 21 ½ E 5.84 rods S 30½ E 8.44 rods; S 44½ E 6.4 S 33¼ E 7.68 rods to an elm on south side of branch; thence crossing branch N 75½ E 196 rods to an elm; thence S 46.75 E 20.8 rods to a post; thence S 65 E 16.65 rods to a thorn tree; thence S 79.75 E 9.04 rods to a post; corner to Jordan, and W.D. Dalton; thence with the Dalton line N 15 E 0.18 rods; thence S 76½ E 12.28 rods to a post; thence S 82½ E 48.32 rods to an anchor post; thence S 70 E 105.8 rods to a post, corner to Dalton in C.R. Bishops line; thence with the Bishop lines N 7 E 22.12 rods to a post; thence S 81.75 E 42.6 rods to a post in Bishops line, and corner to Mrs. Dorsey; thence with her line N 141/2 W 156.56 rods to a post; thence N 86¼ W 92.24 rods to a post; corner to John L. Zacharys land; thence with his lines S 6 W 30.92 rods; S 10½ W 20.6 rods; S 11 W 19.12 rods to a post; thence S 33½ W 10.6 rods to a post at roadway; thence down same N 57.75 W 4.6 rods; N 91½ W 18 rods; N 75½ W 4 rods; N 83.75 W 33.68 rods; N 75½ W 22.72 rods; N 78 W 21.92 rods; N 70 W 27.88 rods to center of Wilson Run road; thence down same S 421/2 W 2.68 rods; S 85 W 2 rods to the beginning, containing 127 acres 48 square rods.

Being the same property conveyed to William B. Gray and Eunice Gray, from Alice Saunders, widow, et al., by deed dated February 1950, and recorded in Deed Book 107, Page 465, Fleming County Clerk's Office. William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

TRACT 2:

A certain tract of land lying and being in Fleming County, Kentucky, and Beginning in the center of the Wilson Run Turnpike and corner to Avery Newman's tract; thence with the Newman's lines, S 70° East 27.68 rods; South 76° East 21.92 rods; South 75½° East 22.72 rods; thence South 83¾° East 33.68 rods; South 75½° East 4 rods; South 81½° East 18 rods to a gate post; thence South 57¾° East 4.6 rods to a post; thence leaving roadway, North 33½° East 10.6 rods; North 11° East 19.12 rods; North 10 ½° East 20.6 rods; North 6° East 30.92 rods to a post, corner to Newman; thence North 86¾° West 96.64 rods to a post; thence North 56° West 7.2 rods to an elm; thence South 400 West 4.52 rods to a wild cherry; thence South 86½° West 1.76 rods to a locust; thence North 85½° West 11.76 rods to center of Wilson Run Road; thence down the same its approximate center, South 14° West 11.64 rods; South 32½° West 2 rods; South 37¾° West 10 rods; South 29½° West 18 rods; South 23½° West 21.32 rods to the Beginning, **CONTAINING** 56 Acres, more or less. Being the same property conveyed to W. B. Gray and Eunice Gray, his wife, from Estle Newsome and Verna Lucille Newsome, his wife, by deed dated December 24, 1957, and recorded in Deed Book 115, Page 24,

Fleming County Clerk's Office, William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

TRACT 3:

A certain tract of land lying and being in Fleming County, Kentucky and more particularly described as follows:

Beginning in the fence line of Second Parties farm corner to Harold Himes and wife and the property conveyed by this deed; thence in a general Southerly direction following the Himes property line to a point corner to Betty Hanun's property; thence at an approximate right angle following the property line of Betty Hamm and Purnell and First Parties other property which is not being conveyed, to Don Hamm's property line; thence in a general Northerly direction following Don Hamm's property line to Second Parties other property; thence following Second Parties other property line following a general Westerly and Northwesterly course to the beginning, containing 55 acres, more or less.

seller

Being the same property conveyed to William B. Gray and Eunice Gray, his wife, from W. Bruce Gardner and Geneva Gardner, his wife, by deed dated March 24, 1979, and recorded in Deed Book 148, Page 241, Fleming County Clerk's Office.

William B. Gray died on June 26, 1991, leaving Eunice M. Gray as sole owner of the property pursuant to the survivorship provision in said deed. Eunice M. Gray died testate on July 23, 2019, giving the Executor the power to sell real estate. See will recorded in Will Book 9, Page 420, Fleming County Clerk's Office.

Tax ID No.: 059-00-00-010.00

EXHIBIT A TO MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

DEPICTION OF THE PROPERTY

Property located in Fleming County, Kentucky, commonly identified as APN: 059-00-00-010.00 and in the location more particularly depicted as follows:

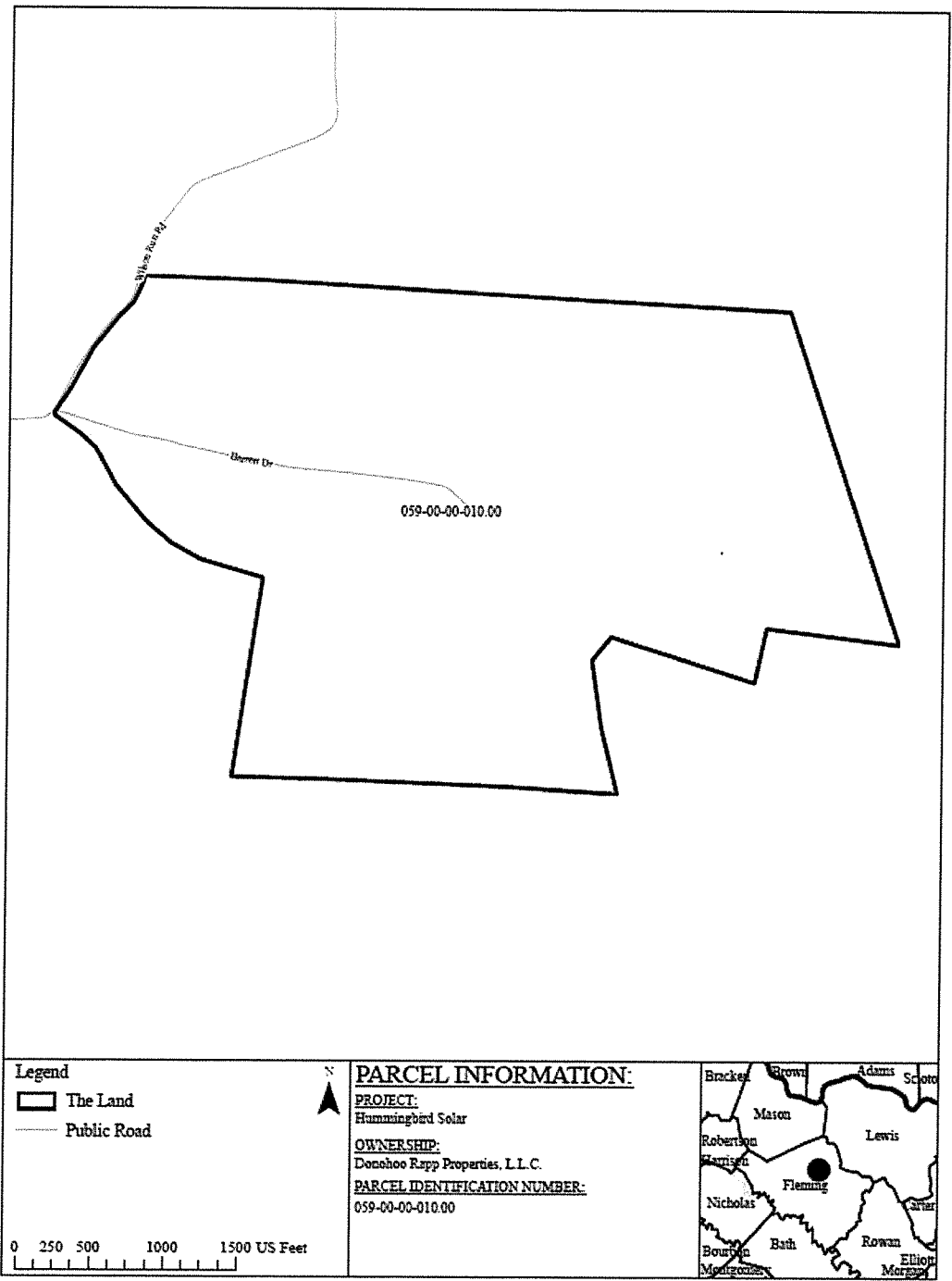


EXHIBIT D-1

Recording requested by
and when recorded mail to:

Hummingbird Solar LLC
c/o []
[]
[]
Attn: []

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TERMINATION OF [MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT]

THIS TERMINATION OF MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT ("Termination") is made as of the ____ day of ____, 20__ by HUMMINGBIRD SOLAR LLC, a Kentucky limited liability company ("Grantor").

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby remises, releases and forever quitclaims unto [____], all of Grantor's rights and interests in the real property more particularly described in Exhibit A attached hereto, which Grantor may have acquired pursuant to that certain [**Amended and Restated Option Agreement for the Right to Purchase Property**], dated as of [____], a memorandum of which was recorded on [____] as Instrument Number [____], in Volume [____], Page [____], in the Official Records of [____] County, [____], [*as affected by (**Amendment to Amended and Restated Option Agreement for the Purchase and Sale of Real Property**) dated _____, an amendment to memorandum of which was recorded on [] as Instrument Number [], in Volume [], Page [], in the Official Records of _____ County, STATE*]

IN WITNESS WHEREOF, Grantor has executed this Termination as of the date first above written.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A
to Termination of Memorandum of Amended and Restated Option Agreement

Legal Description

**AMENDED AND RESTATED OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY**

**APN NO. 071-00-00-004.00
FLEMING COUNTY, KENTUCKY**

THIS AMENDED AND RESTATED OPTION AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is made and entered into as of this 30 day of March, 2023 (such date being the date this Agreement is last signed and executed, the "Effective Date"), by and between **Spencer Rapp and Rebecca Rapp, husband and wife** ("Seller"), and **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Seller and Purchaser are parties to that certain Option Agreement for the Purchase and Sale of Real Property dated as of February 12, 2020 (the "Original Option Agreement") (the "Original Option Agreement Date").

B. Seller and Purchaser desiring to amend and restate the Original Option Agreement, have elected to enter into this Agreement and to execute a Memorandum of Amended and Restated Option Agreement for the Purchase and Sale of Real Property.

C. Seller is the owner of certain real property in Fleming County, in the state of Kentucky, containing approximately 195.70 acres of land, commonly identified as APN 071-00-00-004.00 (the "Land"), as more particularly described and depicted on **Exhibit A** attached hereto and incorporated herein.

D. As used in this Agreement, the term the "Property" shall mean, collectively: (a) the Land, together with all of Seller's right, title and interest in all rights, easements, rights-of-way and other interests appurtenant thereto including, but not limited to, any streets or other public ways adjacent to such Land and any development rights, water rights or mineral rights owned by, or leased to, Seller; (b) all improvements located on such Land, if any (all such improvements being collectively referred to herein as the "Improvements"); and (c) all permits, approvals, and entitlements and other intangible property used in connection with the foregoing, including, without limitation, all of Seller's right, title and interest in any and all warranties and guaranties relating to the Property (collectively, the "Intangible Personal Property").

E. Seller desires to grant to Purchaser an option to purchase the Property on the terms set forth herein. Seller acknowledges that upon acquisition of the Property, Purchaser shall be free to use and dispose of such Property in any manner Purchaser deems appropriate and that Purchaser may sell such Property for any price Purchaser deems appropriate to any subsequent buyer.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Grant of Option to Purchase.

(a) Option to Purchase. Seller hereby grants to Purchaser an exclusive and irrevocable option (the "Option") to purchase from Seller and, if Purchaser exercises the Option, agrees to sell to Purchaser, all of the Property, subject to and upon the terms, covenants and conditions set forth herein.

(b) Intentionally Omitted.

2. Option Term.

(a) Term. The term of the Option shall commence on the Original Agreement Date and shall expire on the date that is [REDACTED] (the "Option Term"). If Purchaser does not exercise the Option, or terminate this Agreement prior to the expiration of the Option Term, Purchaser shall be deemed to have terminated this Agreement, and the parties shall both execute a writing confirming such termination.

(b) Purchaser's Right to Terminate. Notwithstanding anything in this Agreement to the

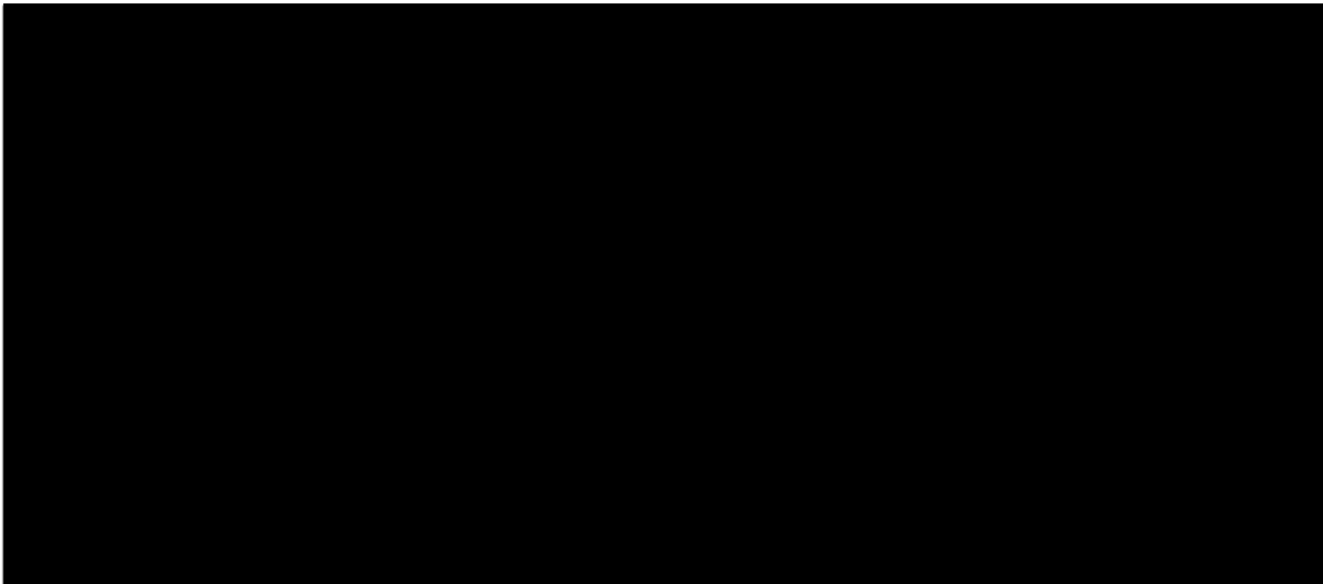
[REDACTED]

hereunder except as otherwise specified in this Agreement. Upon any termination of this Agreement, Purchaser and Seller agree to document such termination by executing and delivering to each other a Termination Agreement in the form attached hereto as Exhibit B and incorporated herein.

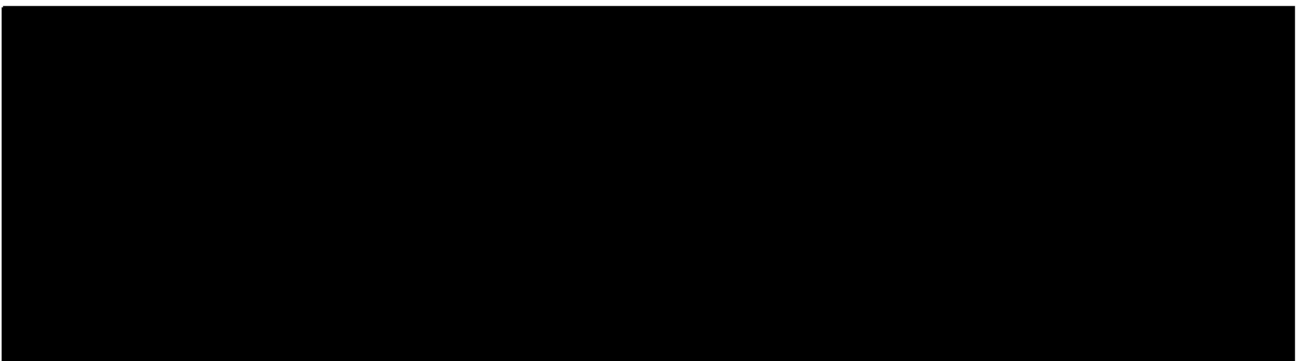
3. Option Consideration.

[REDACTED]

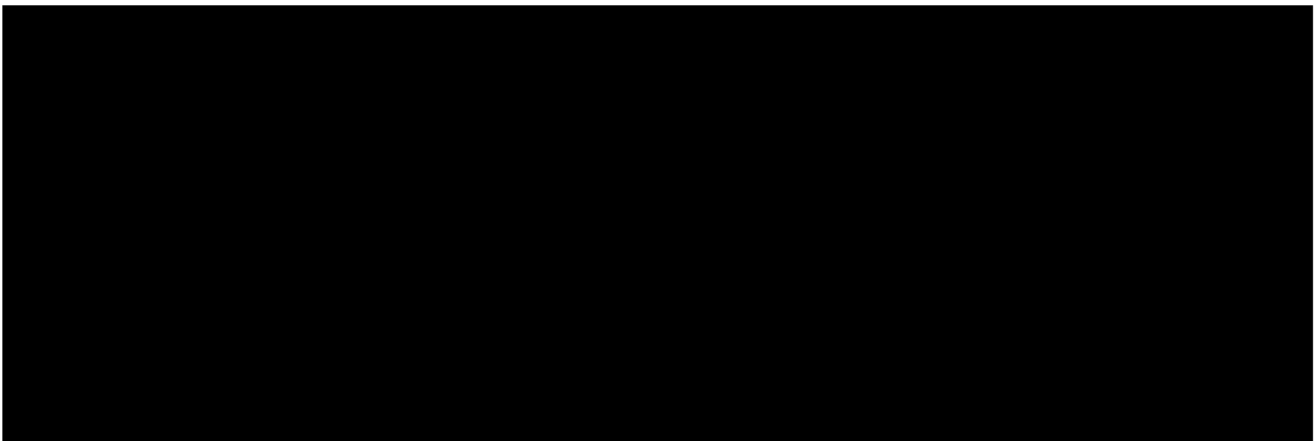
<u>Amount of Option Consideration</u>	<u>Payment Date</u>
---------------------------------------	---------------------



(c) Account Information. All payments made by Purchaser under this Section 3 shall be made by wire transfer to the following bank account:



Seller expressly authorizes and approves the payment direction to the payee as set forth above and waives any claims against Purchaser in the event that payments are made in conformance with the terms herein. Seller shall indemnify Purchaser against any and all claims, losses and causes of action arising out of Purchaser's payments under this Section, including, without limitation, in connection with any dispute amongst payees and/or any members of the Seller. Payment shall be deemed made and paid upon issuance of a wire transfer confirmation number for the transfer of such funds to the above account from Purchaser's financial institution.



interest accrual shall terminate on the date that Purchaser terminates this Option, or this Option is deemed terminated as provided in this Section 3 or Purchaser fails to tender the Option Notice on or before the expiration of the Option Term.

4. Exercise of Option.

The Option may be exercised upon Purchaser's written notice to Seller of its election to exercise the Option ("Option Notice") within the Option Term specified in Section 2. Such Option Notice shall be deemed timely if it is transmitted by E-mail (defined below), delivered or mailed by, certified mail, return receipt requested, or via a nationally recognized overnight delivery service within the time period specified in Section 2. Purchase may only exercise the Option with respect to all of the Property, and may not exercise the Option as to a portion of the Property. In the event that Purchaser timely exercises the Option, Seller shall sell to Purchaser and Purchaser shall buy from Seller the Property, on the terms and conditions established in this Agreement. Notwithstanding anything to the contrary contained above, Purchaser shall deliver written notice to Seller's Affiliate (defined below) of its election to exercise the option granted under the Donohoo Option (defined below) no later than five (5) business days after the date set forth in the Option Notice, provided, however, that such condition precedent shall be waived to the extent that a "Seller Default" (as such term is defined under the Donohoo Option) has occurred.

5. Purchase Price.

(a) The "Purchase Price" for the Property shall be equal to [REDACTED] per acre of the Property, multiplied by the actual number of acres of the Property (approximately 195.70 acres) as shown on a new survey of the Property obtained by Purchaser pursuant to this Agreement.

(b) The Purchase Price shall be paid at the closing of the sale of the Property to Purchaser (the "Closing") as follows:

(i) All of the amounts paid by Purchaser as Option Consideration (less the Signing Option Consideration and Amendment Payment) shall be credited towards the Purchase Price at the Closing.

(ii) The balance of the Purchase Price, plus or minus prorations and other adjustments hereunder, shall be paid to Seller in cash or other immediately available funds at the Closing.

6. Due Diligence and Time for Satisfaction of Conditions.

Purchaser shall have the right to access the Property and to commence due diligence with respect to the Property immediately following the Effective Date, and the due diligence period ("Due Diligence Period") shall expire at 5:00 p.m. Pacific Standard Time on the last day of the Option Term. Within five (5) days after the Effective Date, Seller shall deliver to Purchaser or make available to Purchaser and its employees, representatives, counsel and consultants access to all of its books, records and files relating to the Property in Seller's possession or control, including, without limitation, all of the items set forth in Section 7 below (collectively, the "Due Diligence Items").

7. Diligence Period Conditions.

The following shall be conditions precedent to Purchaser's obligation to purchase the Property (the "Diligence Period Conditions"):

(a) Purchaser's review and approval of written documentation satisfactory to Purchaser, confirming that Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and that the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller. Seller shall deliver such written documentation to Purchaser within five (5) days after the Effective Date.

(b) Purchaser's review and approval of the Due Diligence Items, including, but not limited to, any and all tenant leases (including oil, gas or mineral rights), if any, and all amendments thereto (collectively, the "Leases"); all contracts pertaining to the use and operation of the Property, if any (collectively, the "Service Contracts"); permits and entitlements; any materials or reports concerning the physical condition of the Property; any records of the use of Hazardous Materials (defined below) on the Property; and such other documents and information reasonably requested by Purchaser, including, but not limited to, any existing Phase I and/or II Environmental Site Assessment, geotechnical studies, biological studies, cultural resource studies, wetland studies, drainage studies and/or plans, improvement plans, building plans, traffic studies, water supply assessment studies, and

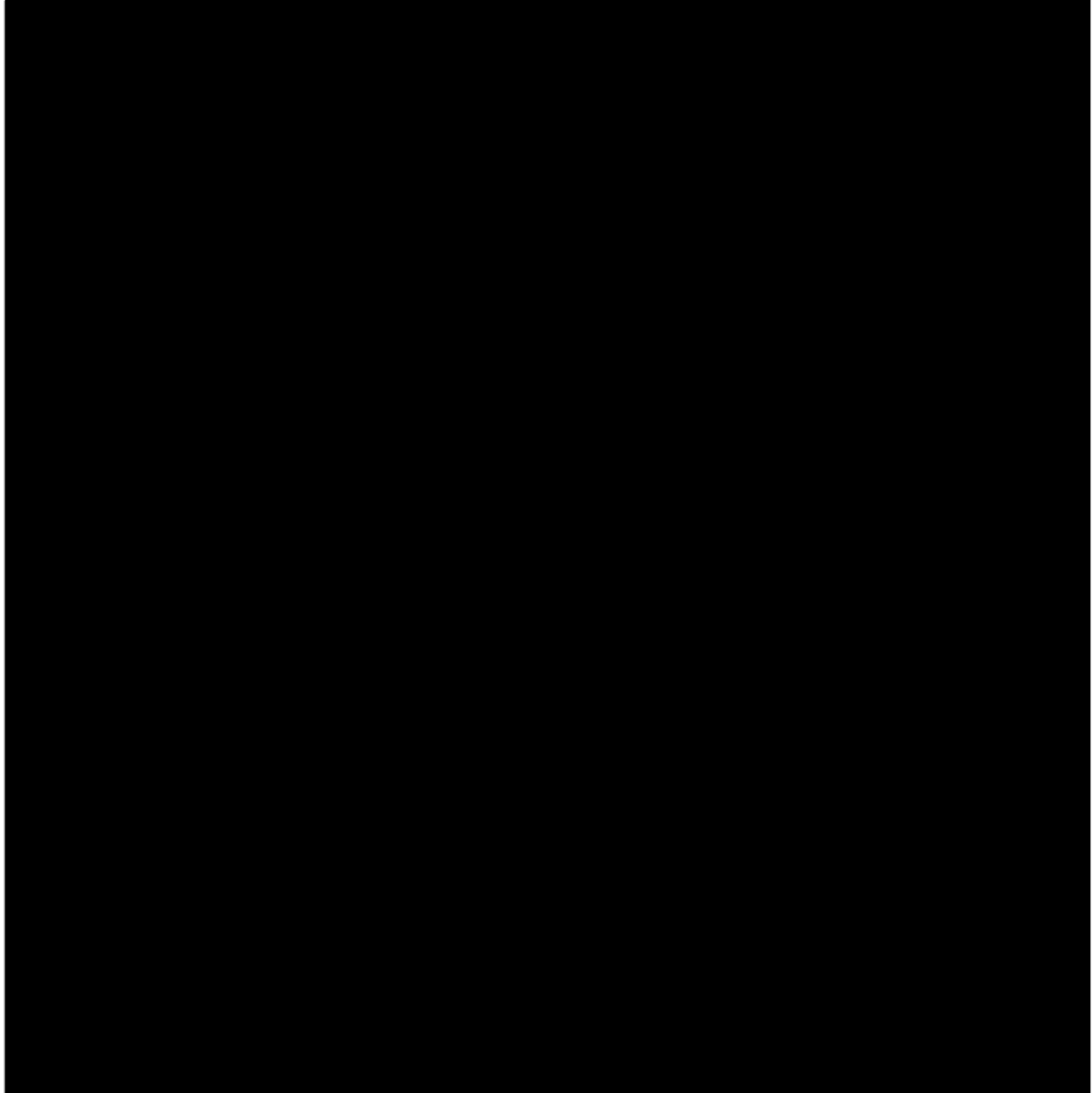
(c) Purchaser's review and approval of the condition of title to the Property. Purchaser shall obtain a current preliminary title report or a commitment for title insurance with respect to all of the Land, issued by Old Republic National Title Insurance Company, or a title company selected by Purchaser (the "Title Company"), accompanied by copies of all documents referred to in the report or commitment (collectively, the "Preliminary Report"). Seller shall deliver to Purchaser at Seller's sole cost and expense, within five (5) days after the Effective Date, the following:

(i) copies of all existing and proposed easements, covenants, restrictions, agreements or other documents which affect title to the Property that are actually known by Seller and are not recorded (and, within five (5) days after Purchaser's delivery to Seller of a copy of the Preliminary Report, any such documents that are actually known by Seller that may be recorded, but that are not disclosed by the Preliminary Report) (collectively, "Undisclosed Encumbrances"), including but not limited to any existing above ground or below ground irrigation pipes, water wells, pumps, gas lines, and electrical service lines serving the Property (and if no such documents exist, a written explanation of or map showing the existence of any such items); and

(ii) the most recent survey of the Property, if available. Purchaser shall have the right, [REDACTED] to obtain a new survey of the Property and/or an update of any survey provided by Seller. Any surveys provided by Seller, together with any new or updated survey obtained by Purchaser, are collectively referred to herein as the "Survey".

Purchaser shall have [REDACTED] to notify Seller in writing of any objections (the "Title Objections") with respect to the Preliminary Report, Undisclosed Encumbrances and the Survey based on its review thereof. Seller shall have five (5) business days after receipt of the Title Objections to notify Purchaser in writing that Seller (a) will

cause, or (b) elects not to cause, any or all Title Objections disclosed therein to be removed or otherwise cured prior to Closing. Seller's failure to notify Purchaser within such five (5) business day period as to any Title Objections shall be deemed an election by Seller not to remove or otherwise cure such Title Objections. If Seller notifies or is deemed to have notified Purchaser that Seller will not remove or otherwise cure any or all of the Title Objections, Purchaser shall have until the end of the Due Diligence Period to (i) terminate this Agreement, or (ii) waive such Title Objections (failure of Purchaser to provide Seller notice of either (i) or (ii) above shall be deemed a waiver by Purchaser of



(d) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of all aspects of the Property, including, without limitation, all of the Due Diligence Items, and the results of Purchaser's examinations, inspections, testing, and or investigations of the Property and the Due Diligence Items (collectively, "Purchaser's Due Diligence Investigations"). Purchaser's Due Diligence Investigations may include an examination for the

presence or absence of Hazardous Materials (as defined below) on, under or in the Property including, without limitation, the review and approval of any Phase I or Phase II environmental report, geotechnical study, biological study, cultural resource study, wetland study, drainage study and/or plans, improvement plans, building plans, traffic study, water supply assessment study, and crop planting and harvesting schedule which Purchaser may obtain, at its cost, during the Due Diligence Period. In the event Purchaser wishes to conduct a Phase II environmental audit report, at Purchaser's sole cost and expense, Seller agrees to such testing on the Property.

(e) Purchaser's review and approval, in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of reports by consultants, engineers and/or architects selected by Purchaser to inspect the Property.

(f) Purchaser's review and approval in its sole and absolute discretion, prior to the expiration of the Due Diligence Period, of evidence satisfactory to Purchaser and its legal counsel and consultants that the Property and Purchaser's proposed development thereof complies with all applicable zoning, subdivision, land use, redevelopment, energy, environmental, building and other governmental requirements applicable to the use, maintenance and occupancy of the Property and the proposed development thereof.

(g) Written documentation satisfactory to Purchaser, confirming that all state and local real property and business taxes pertaining to the Property (including, without limitation, all corporate, sales, and withholding taxes) have been paid in full by Seller.

8. Conditions to Closing. The following conditions are precedent to the applicable party's obligation to complete the Closing (the "Conditions Precedent"). If any Conditions Precedent are not satisfied as of the Closing Date as determined by the party for whom the Condition Precedent is in favor of in its reasonable discretion (except as otherwise provided), the party for whom the Condition Precedent is in favor of may elect by written notice to the other to terminate this Agreement, and except as set forth in Section 9(b) and subsection 8(a)(xi) below, Seller shall retain all Option Consideration as liquidated damages and as its sole and exclusive remedy pursuant to Section 9(c) below. Upon such termination, neither party shall have any further rights or obligations hereunder except as otherwise specified in this Agreement.

(a) The Conditions Precedent in favor of Purchaser shall be the following:

(i) This Agreement shall not have terminated pursuant to any other provision hereof, including, without limitation, pursuant to Sections 2 or 9.

(ii) Purchaser shall have a fully executed agreement for the sale of power based on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(iii) Purchaser shall have determined, in its sole and absolute discretion, that financing can be obtained to purchase the Property and develop a solar power facility thereon in an amount and on terms satisfactory to Purchaser, in Purchaser's sole and absolute discretion.

(iv) The physical condition of the Property shall be substantially the same on the day of Closing as on the Effective Date, loss by casualty excepted, and free and clear of all personal property, motor homes, junk, trash, sheds and similar property; and, as of the day of the Closing, there shall be no litigation or administrative agency or other governmental proceeding

of any kind whatsoever, pending or threatened, which after the Closing could or would materially adversely affect the value of the Property or Purchaser's ability to develop the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the re-designation or other modification of the zoning classification of the Property or any portion thereof, which after the Closing would materially adversely affect the value of the Property or the ability of Purchaser to develop the Property in the manner contemplated by Purchaser.

(v) All Leases and Service Contracts shall be terminated effective on or before the Closing, and Seller shall deliver exclusive possession of the Property to Purchaser and shall convey good and marketable fee simple title to the Property to Purchaser by good and sufficient Special Warranty Deed in the form of **Exhibit C** attached hereto (the "Deed") free and clear of all liens and encumbrances and subject to no exceptions other than the following:

- (1) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent,
- (2) Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Purchaser in writing prior to or as of the Closing, and
- (3) All exceptions to title contained or disclosed in the Preliminary Report and Survey other than Title Objections identified (including objections set forth in any Gap Notice) and not thereafter waived by Purchaser.

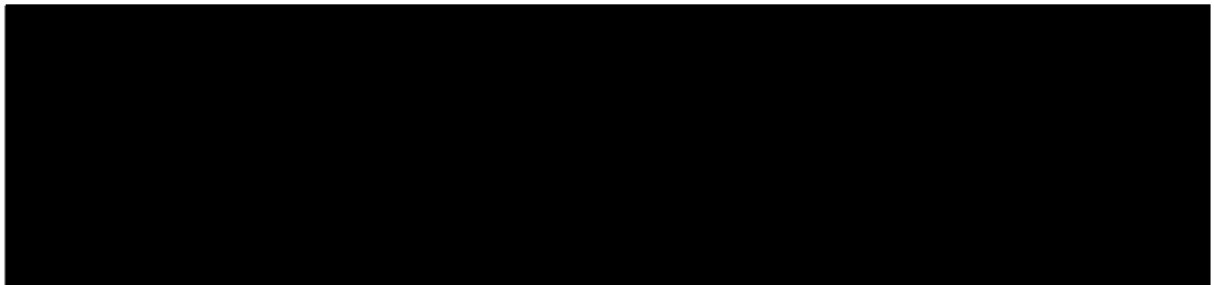
(vi) The Title Company shall be irrevocably and unconditionally committed to issue to Purchaser, an ALTA extended coverage Owner's policy of title insurance covering the Property, in the full amount of the Purchase Price, subject only to those encumbrances previously approved by Purchaser and containing such endorsements as Purchaser may reasonably request.

(vii) All of Seller's representations and warranties contained in Section 11 herein shall be true and correct on the Closing Date.

(viii) Seller has delivered into escrow all deliverables required in accordance with Section 10(b) below.

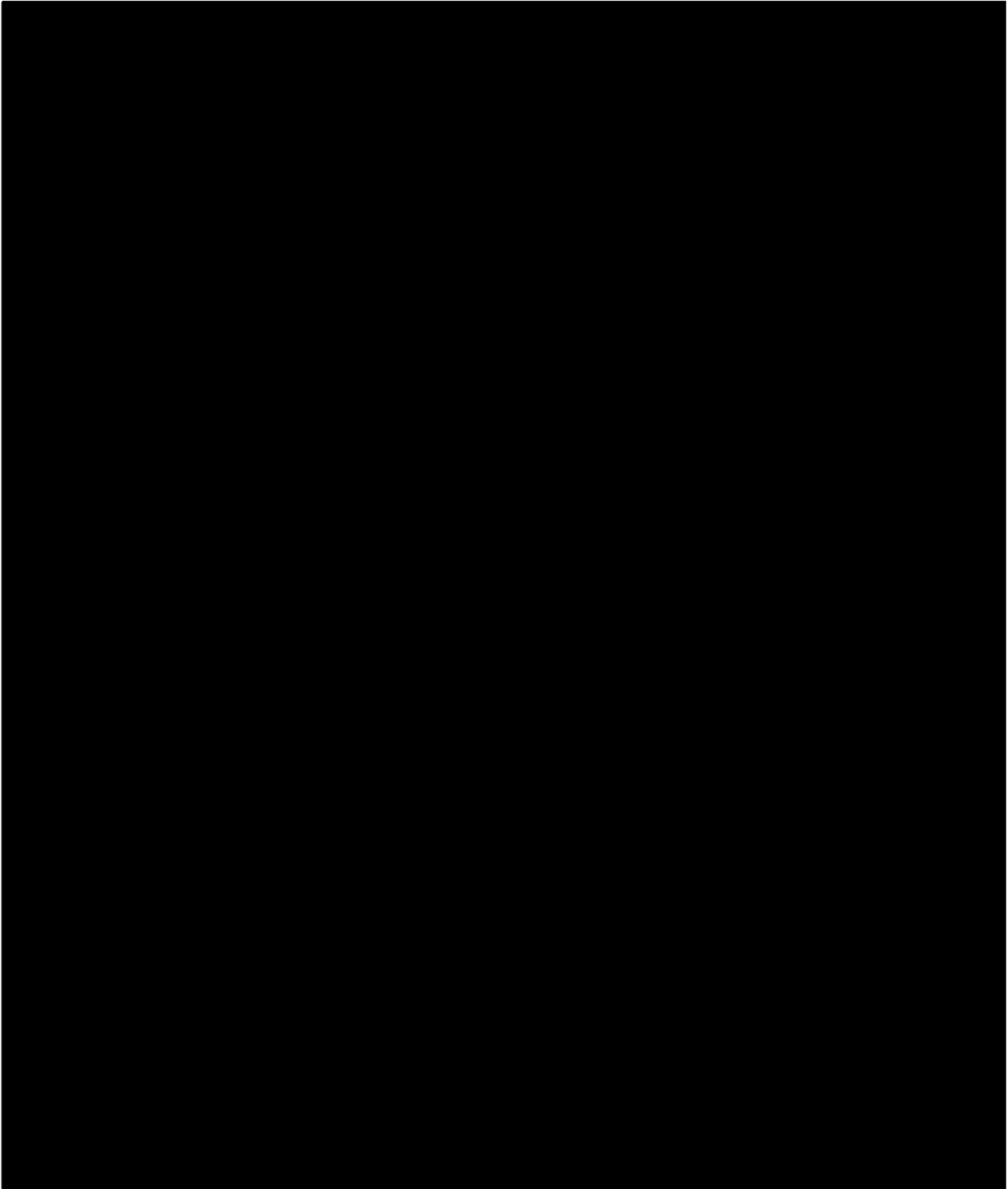
(ix) Seller is not otherwise in default of this Agreement.

(x) The Land constitutes a separate legal parcel in accordance with all applicable laws. This legal parcel condition is not subject to waiver by the parties.

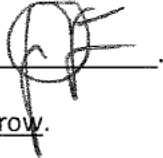


(b) The Conditions Precedent in favor of Seller shall be the following: There is no default by Purchaser under the Donohoo Option; provided, however, that if this Condition Precedent is not satisfied, Seller shall have the right to waive this Condition Precedent and proceed to the Closing.

9. Remedies.



PURCHASER INITIALS: _____



10. Closing and Escrow.

(a) The parties shall conduct an escrow Closing pursuant to this Section 10 on a date to be selected by Purchaser, which date shall be specified in Purchaser's notice exercising the Option pursuant to Section 4, [REDACTED] after Purchaser delivers such notice, or on such other date as Purchaser and Seller may agree in writing in their sole and absolute discretion (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser. In the event the Closing does not occur on or before the Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the respective party any items previously delivered by such party to the Title Company. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

(b) At or before the Closing, Seller shall deliver to the Title Company (for delivery to Purchaser upon the Closing) the following:

(i) a duly executed and acknowledged Deed in the form attached hereto as Exhibit C;

(ii) all material documents, agreements and correspondence and items relating to the ownership, operation, maintenance or management of the Property;

(iii) a duly executed bill of sale agreement transferring title to all of Seller's interest in any personal property located on the Property as of Closing in a form reasonably acceptable to Seller and Purchaser (the "Bill of Sale") (provided, however, that neither the delivery by Seller, nor the acceptance by Purchaser, of this Bill of Sale obviates Seller's obligation to deliver the Property free and clear of all personal property at Closing;

(iv) a duly executed assignment and assumption agreement assigning Seller's interest in the Intangible Personal Property in a form reasonably acceptable to Seller and Purchaser (the "Assignment of Intangibles");

(v) evidence that all Service Contracts and Leases have been terminated;

(vi) a certificate, dated as of the date of Closing certifying that the representations and warranties set forth in Section 11 are true and correct as of the Closing Date;

(vii) a certificate of non-foreign status in accordance with the requirements of Internal Revenue Code Section 1445, as amended; and

(viii) any other closing documents reasonably requested by the Title Company or Purchaser, including an owner's affidavit in a form reasonably requested by the Title Company. Purchaser may, in its sole and exclusive discretion, waive compliance on Seller's part under any of the foregoing items by an instrument in writing.

(c) At or before the Closing, Purchaser shall deliver to the Title Company (for delivery to Seller upon the Closing) the following:

(i) the balance of the Purchase Price subject to adjustment as set forth in Section 3 and this Section 10 in cash or other immediately available funds, subject to prorations and adjustments as set forth herein;

(ii) the Assignment of Intangibles duly executed by Purchaser; and

(iii) any customary and/or reasonable closing documents requested by the Title Company.


(d) The following are to be apportioned as of the Closing Date as follows, with Purchaser being deemed to be the owner of the Property during the entire day on which the Closing takes place and being entitled to receive all income of the Property, and being obligated to pay all expenses of the Property, with respect to such day:

(i) Utility Charges. Seller shall be responsible for the cost of all utilities used, if any, prior to the Closing Date.



(iii) Survival. The provisions of this Section 10(d) shall survive the Closing for twelve (12) months.





11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser as follows:

(a) Seller has not, and as of the Closing, Seller shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not, and as of the Closing shall not be, a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement (i) has been duly authorized, executed and delivered by Seller, and (ii) does not, and as of the Closing shall not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(d) There is no litigation pending or threatened with respect to the Property or the transactions contemplated hereby or that would impair Seller's ability to perform under this Agreement.

(e) There are no violations of any applicable environmental, zoning or land use law, or any other applicable local, state or federal law or regulation relating to the Property, including, without limitation, the Americans with Disabilities Act of 1990 and Seller is not aware of any proposed or pending changes in zoning or proposed relocation, reconfiguration or other change with respect to any street or road affecting the Property, if any.

(f) There are no condemnation proceedings pending or threatened that would result in the taking of any portion of the Property. Seller has not received any written notice of any special assessment proceedings affecting the Property that are not disclosed on the Preliminary Report.

(g) The parties comprising Seller under this Agreement are the sole owners of the Property and Seller holds good and marketable fee simple title to the Property according to laws of the Commonwealth where the Property is located.

(h) The Land constitutes a separate legal parcel (or separate legal parcels) in accordance with all applicable laws.

(i) Seller has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(j) The Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement are, or when delivered will be, all of the relevant documents, materials, reports and other items pertaining to the condition and operation of the Property, will be true, correct and complete copies, and will be in full force and effect, without default by any party and without any right of set-off except as disclosed in writing at the time of such delivery.

(k) Seller possesses the full power and authority to sell the Property to Purchaser on the terms and conditions set forth herein and the individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller.

(l) To the best of Seller's knowledge, Hazardous Materials have not at any time been generated, used or stored on, or transported to or from, or released or disposed of on the Property in violation of environmental laws and restrictions, and Seller has not used Hazardous Materials on the Property for purposes other than (i) as necessary to operate and maintain the Property and (ii) in compliance with all environmental laws and restrictions. There are not now and never have been any underground storage tanks located on or under the Property and there is no asbestos contained in, forming part of, or contaminating any part of the Property. For the purposes hereof, "Hazardous Materials" shall mean (i) any petroleum or petroleum distillates and products, flammable explosives, radioactive materials, asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls in any concentrations, and radon gas; (ii) any chemicals, materials, substances or wastes which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or words of similar import, under any environmental laws and restrictions; and (iii) any other chemical, material, substance, or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental or regulatory authority. Notwithstanding the foregoing, Seller represents that Seller has operated vehicles, tractors and other equipment on the Property in connection with Seller's farming operations on the Property and Purchaser acknowledges that such vehicles, tractors and equipment require the use of de minimis quantities of petroleum products; Seller represents and warrants that its farming operations on the Property are being operated in a commercially reasonable manner and in compliance with all applicable laws.

All representations and warranties made by Seller herein or made in writing pursuant to this Agreement shall be deemed to be material, shall be deemed remade as of the Closing and shall survive the execution and delivery of this Agreement and the Closing [REDACTED]

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller as follows:

(a) Purchaser is a duly organized and validly existing limited liability company in good standing under the laws of the Commonwealth in which it was formed; this Agreement and all documents executed by Purchaser which are to be delivered to Seller at the Closing are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Purchaser is subject.

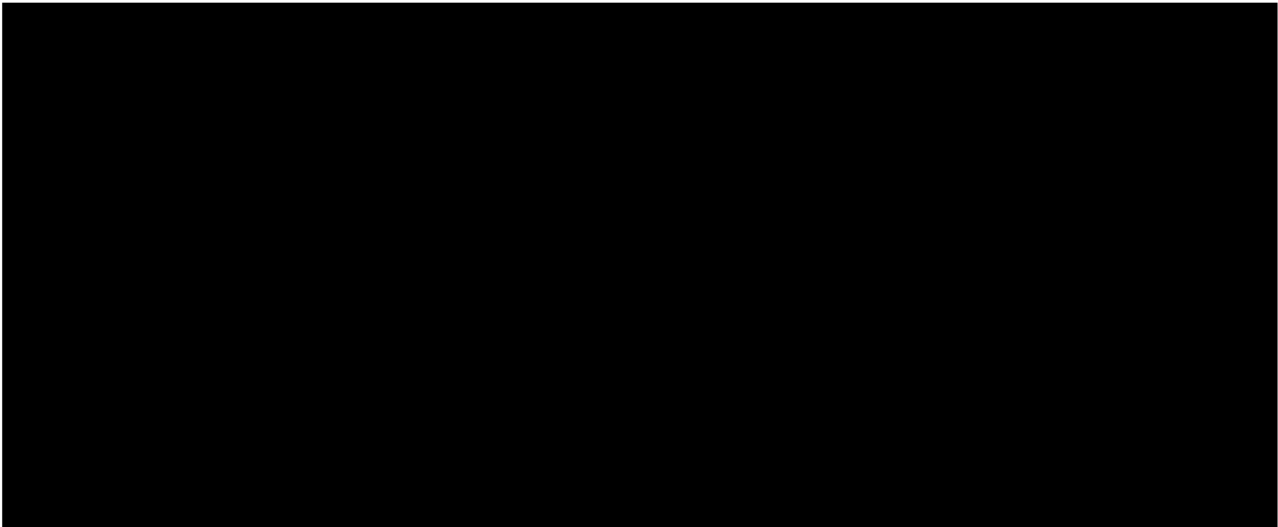
(b) Purchaser has not, and as of the Closing, Purchaser shall not have (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Purchaser's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Purchaser's assets, which remains pending as of such time, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

All representations and warranties made by Purchaser herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing [REDACTED]

13. Access; Indemnity; Possession.

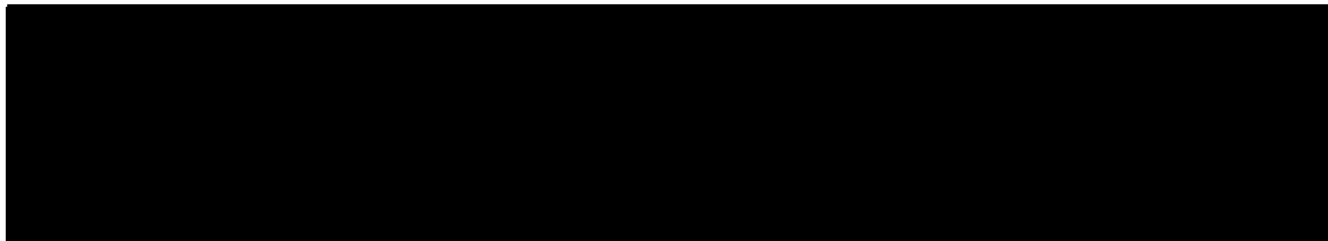
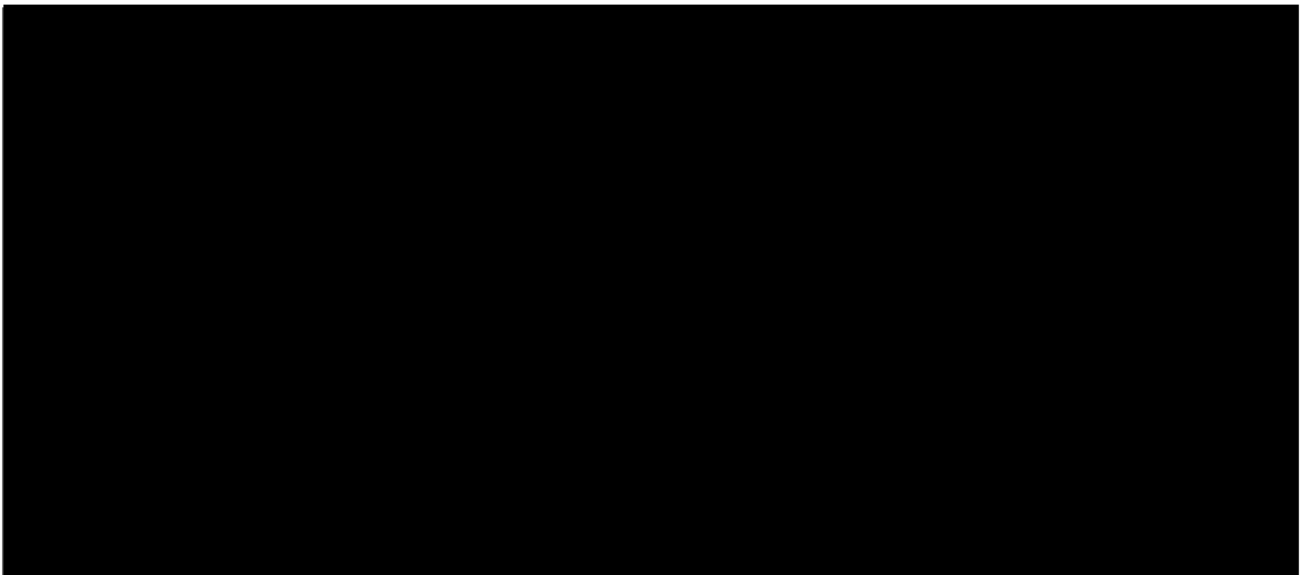
(a) Access. Commencing on the Original Agreement Date and through the Closing Date or the earlier termination of this Agreement, Seller shall, and shall cause Seller's tenants, if any, to afford authorized representatives of Purchaser reasonable access to the Property for purposes of satisfying Purchaser with respect to the representations, warranties and covenants of Seller contained herein and with respect to satisfaction of any Diligence Period Condition or any Condition Precedent, including, without limitation, to conduct Purchaser's Due Diligence Investigations, measurement of meteorological characteristics of the Property which may require the installation of a meteorological station, conducting of geotechnical tests and borings and performing a Phase I or Phase II environmental site assessment of the soils, waters and improvements on the Property. All installations, tests or inspections shall be at Purchaser's expense, and Purchaser shall indemnify and hold Seller harmless from and against any and all costs, claims or damages incurred or suffered by Seller arising from the performance of such tests or inspections; provided this indemnity shall not apply to conditions existing at the Property that are merely discovered by Purchaser or to any act or omission of Seller, its employees, representatives or agents. During the Option Term, at Purchaser's option and with prior notice to Seller, Seller shall (and shall cause Seller's tenants, if any, to) allow Purchaser access to the Property for purposes of controlling the formation of wetlands or wildlife habitat. If this Agreement is terminated for a reason other than a default under this Agreement by Seller, Purchaser shall repair the damage caused by Purchaser's entry onto and/or inspections of the Property; provided, however, the foregoing shall not require Purchaser to repair or remediate any conditions that are merely discovered by Purchaser. [REDACTED]

(b) Seller's Continued Use of Property. During the Option Term, and up to the Closing Date, subject to Purchaser's rights set forth in this Agreement, Seller may continue to use or lease the Property. All existing Leases, shall be terminated by Seller at its sole cost and expense effective prior to the Closing and Seller shall deliver possession of the Property free and clear of any interests or



(c) Intentionally Omitted.

(d) Possession. Possession of the Property shall be delivered to Purchaser at 5:00 p.m. Eastern Standard Time on the Closing Date.



14. Seller Covenants.

(a) Seller is a duly organized and validly existing limited liability company in good standing under the laws of the Commonwealth in which it was formed; this Agreement and all documents executed by Seller which are to be delivered to Purchaser at the Closing are or at the time of Closing

will be duly authorized, executed and delivered by Seller, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Seller is subject.

(b) At the time of the Closing, Seller shall cause to be paid in full all obligations under any outstanding written or oral contracts made by Seller for any improvements to the Property, and Seller shall cause to be discharged all mechanics' and materialmen's liens arising from any labor or materials furnished to the Property prior to the time of the Closing.

(c) Between the Original Agreement Date and the Closing, to the extent Seller has any knowledge thereof, Seller shall promptly notify Purchaser of the following items relating to the Property: (i) any condemnation, environmental, zoning or other land-use regulation proceedings; (ii) any notices of violations of any laws; (iii) any litigation relating to the Property or that arises out of the ownership of the Property or affects Seller's ability to perform under this Agreement; and (iv) the termination, modification or default under any Leases or Service Contracts.

(d) Through the Closing Date, Seller shall maintain or cause to be maintained, [REDACTED] all policies of insurance currently in effect with respect to the Property (or comparable replacements thereof) and Seller shall maintain the Property in the same condition existing as of the Original Agreement Date, reasonable wear and tear excepted.

(e) Seller shall also deliver to Purchaser copies of any bills for real estate taxes and personal property taxes and copies of any notices pertaining to real estate taxes or assessments applicable to the Property that are received by Seller after the Original Agreement Date, even if received after Closing. Without limiting Seller's obligation to timely pay all real property taxes and assessments, with respect to any taxes that are delinquent as of the Original Agreement Date or at any future date that Option Consideration is payable to Purchaser, Purchaser shall have the right (but not the obligation) to set off and withhold out of the first Option Payment, any subsequent Option Payments or the Purchase Price balance paid at Closing, the amounts necessary to bring said delinquent real property taxes and assessments current. Purchaser may pay the delinquent amounts directly to the assessing entity on behalf of Seller. The obligations set forth in this Section 14(d) shall survive the Closing.

(f) Seller shall remove the Property from the market, if listed, and shall not market the Property for sale during the term of this Agreement.

(g) Purchaser shall have the right, at Purchaser's expense, to apply for, change and/or obtain zoning changes, general plan amendments, land use entitlements, planning approvals, permits, tax classifications, , property tax exemptions, subdivision and/or lot line adjustment approvals affecting the Property consistent with Purchaser's intended use of the Property. Seller shall cooperate with Purchaser in Purchaser's efforts to obtain such approvals by executing such documents and taking such actions as are reasonably necessary to obtain such approvals. Seller agrees that it shall not contest, challenge or publicly or privately dispute, verbally or in writing, Purchaser's efforts to

[REDACTED]

15. Miscellaneous.

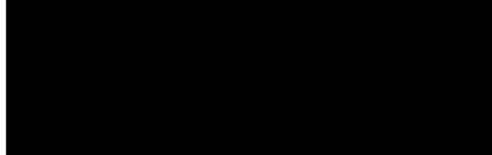
(a) Assignment. Except as provided below, Purchaser may assign its rights under this Agreement only upon the prior written consent of Seller, which consent may not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Purchaser may assign its rights under this Agreement without Seller's consent (i) to an affiliate of Purchaser, (ii) to any person or entity succeeding to all or substantially all of the assets of Purchaser, or (iii) as security in connection with any financing transaction entered into by Purchaser.

(b) Binding on Successors. This Agreement shall be binding not only upon the parties but also upon their respective heirs, executors, personal representatives, assigns, and other successors in interest.

(c) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed given by (i) electronic mail at the email address set forth below (so long as any email notice contains the following in the Subject line in all caps: "OFFICIAL NOTICE UNDER SPENCER RAPP AND REBECCA RAPP PURCHASE OPTION – FLEMING COUNTY, KY"), (ii) first class mail, postage prepaid, registered or certified, return receipt requested, or (iii) nationally recognized overnight courier, addressed to the party to whom notice is to be given at the address set forth below and naming the individuals hereinafter set forth (as applicable). Any notice, demand, and other communications hereunder shall be deemed received upon actual receipt or refusal thereof. Either party may change its address and/or the names of such individuals for purposes hereof by giving the other party notice of the new address in the manner described herein.

IF TO SELLER:

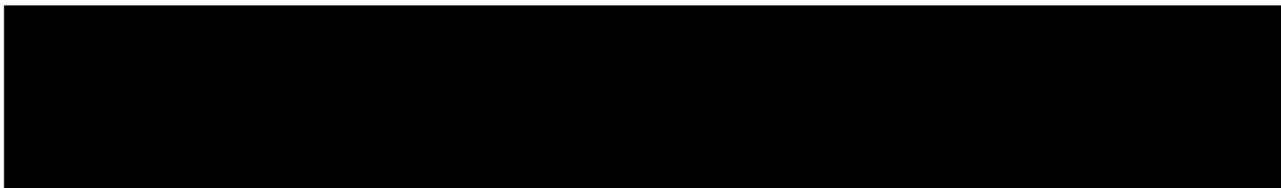
Spencer Rapp and Rebecca Rapp

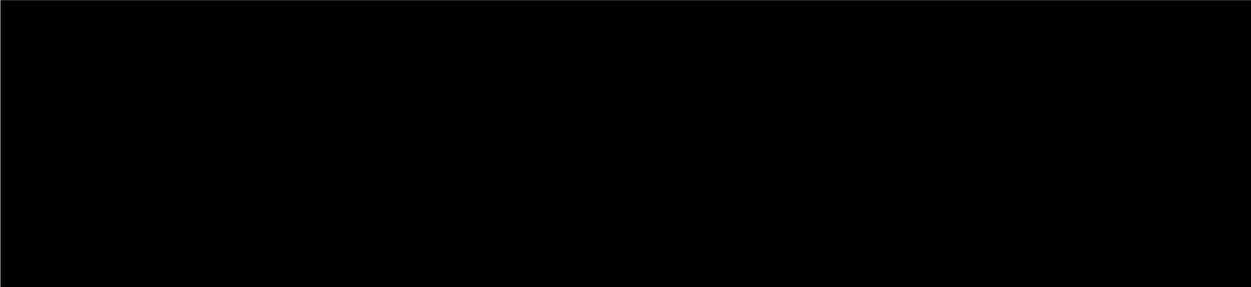


IF TO PURCHASER: Hummingbird Solar LLC
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attn: Walter Putnam

WITH A COPY (WHICH SHALL NOT CONSTITUTE NOTICE) TO: Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
Attn: John Livingston

or such other address as either party may from time to time specify in writing to the other.





(e) Recording and Subordination. Purchaser may not record this Agreement, but concurrent with the execution hereof, Seller and Purchaser shall execute a memorandum of this Agreement in the form attached hereto as Exhibit D, which Purchaser may record in the real property records of the county in which the Property is located (the "Memorandum"). If this Agreement is terminated, Purchaser agrees to execute and record a termination of the Memorandum in the form attached hereto as Exhibit D-1. Within ten (10) days after receipt of a written request made from time to time by Purchaser, Seller shall obtain from the holder of any mortgage or deed of trust liens or any other monetary lien encumbering the Property a reasonable subordination agreement whereby the holder of such lien agrees that its lien is subordinate to Purchaser's option.

(f) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

(h) Merger of Prior Agreements. This Agreement and the exhibits and schedules hereto, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties relating to the subject matter hereof.

(i) Time of the Essence. Time is of the essence of this Agreement; provided, however, should the date for payment or performance required under this Agreement fall on a non-business day (i.e., Saturday, Sunday or any other day on which national banks in California are not open for business), then the date required for payment or performance under this Agreement shall be extended to the first business day following the non-business day on which such payment or performance was required.

(j) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(k) Confidentiality. Seller agrees to maintain in confidence, and not to disclose to any third party, the information contained in this Agreement or pertaining to the sale contemplated hereby; provided, however, that Seller, its agents and representatives may disclose such information and data (a) to its accountants, attorneys, other advisors and Seller's Affiliate in connection with the transactions contemplated by this Agreement (collectively "Representatives") to the extent that such Representatives reasonably need to know such information and data in order to assist, and perform services on behalf of, Seller, but Seller shall remain responsible for its Representatives' compliance with the confidentiality provisions of this Agreement; (b) to the extent required by any applicable statute, law, regulation, governmental authority or court order; and (c) in connection with any

litigation that may arise between the parties in connection with the transactions contemplated by this Agreement. The provisions of this Section 15(k) shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement. Notwithstanding the provisions of this Section 15(k), the recording of the memorandum of this Agreement as contemplated by Section 15(e) is expressly permitted.

(l) Attorneys' Fees. The prevailing party in any action or proceeding for the enforcement, protection, or establishment of any right or remedy under this Agreement or for the interpretation of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

(m) Counterparts and Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Signatures required under this Agreement may be transmitted by facsimile or electronic mail and, once received by the party to the Agreement to whom such signatures were transmitted, shall be binding on the party transmitting its signatures as though they were an original signature of such party.

(n) Removal of Structures. Notwithstanding any other provision of this Agreement, Seller shall have the right to remove at its cost any structures on the Property prior to Closing Date.

(o) Execution Contingency. As a condition precedent to the effectiveness of this Agreement, Purchaser shall execute the Donohoo Option with Seller's Affiliate prior to the Effective Date of this Agreement or within five (5) business days after the Effective Date of this Agreement. If Purchaser fails to execute such and Donohoo Option with Seller's Affiliate in accordance with the terms of this Section, this Agreement shall terminate and neither party shall have any further rights or obligations under this Agreement.

(p) Original Option Agreement.

(i) Purchaser and Seller acknowledge that this Agreement amends and restates the Original Option Agreement. Seller represents and warrants to Purchaser that, as of the date hereof: (1) the Original Option Agreement was in full force and effect and had been terminated or further modified except pursuant to this Agreement; (2) there exist no defaults under the Original Option Agreement or facts or circumstances which might give rise to a default under the Original Option Agreement; (3) all representations in Section 11 of the Original Option Agreement are true and correct as of the date of this Agreement; and (4) Seller has not received a notice of exercise of Purchaser's option to purchase the Option Property.

(ii) Seller has not given to Purchaser or received from Purchaser any notice of default. Seller is not in default under the Agreement and is not presently aware of any breach or default of Purchaser under the Agreement. Seller is not presently aware of any fact or circumstance that, with the passage of time or the giving of notice, or both, would constitute a breach or default under the Agreement, or that would entitle Seller to any claim, counterclaim, offset or defense against Purchaser in respect of the Agreement. There are no legal proceedings commenced or threatened against Purchaser by Seller. To Seller's knowledge, there are no legal proceedings commenced or threatened against Seller by Purchaser.



[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

By: 

Name: Michael Keith

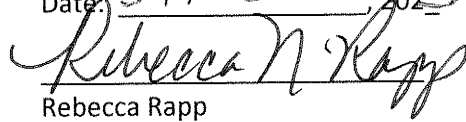
Its: MANAGER

Date: 3/30, 2023

SELLER:


Spencer Rapp

Date: 3-17-23, 2023


Rebecca Rapp

Date: 3/17/23, 2023

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Property located in Fleming County, Kentucky, commonly identified as APN: **071-00-00-004.00** and in the location more particularly described as follows:

TRACT NO. I

PARCEL NO. I:

A certain tract of land located in Fleming County, Kentucky, and being more particularly described as follows:

BEGINNING, at the edge of Kentucky Highway #3301 and corner to Second Parties other property; thence N 75 deg. W 848.5 feet; thence N 08 deg. E 1811 feet; thence S 68 deg. W 774.5 feet; thence S 63 deg. W 438 feet; thence S 02 deg. W 48 feet; thence N 84 deg. W 425 feet; thence N 54 deg. W 120 feet; thence N 83 deg. W 200 feet; thence S 45 deg. W 172 feet; thence S 16 deg. E 208 feet; thence S 13 deg. E 400 feet; thence S 52 deg. E 57 feet; thence S 22 deg. E 200 feet; thence S 60 deg. E 600 feet; thence S 07 deg. E 839 feet; thence N 76 deg. E 1644 feet; thence N 00 deg. E 70 feet to the beginning, containing 67.136 acres, more or less.

PARCEL NO. II:

A tract of land fronting on Kentucky Highway 3301 and on the East side thereof and bordered by the property of Adrian William and Shirley Williams, and containing .30 acres, more or less.

Being the same property conveyed to LeRoy Yoder, Jr. and Mary A. Yoder, his wife, from Stove Fearin and Cathy Fearin.; his wife, by a deed of conveyance dated April 1, 1993, of record in **Deed Book 176, Page 393**, of the Fleming County Clerk's Office.

THERE IS EXCEPTED AND NOT HEREIN CONVEYED, the following described property;

A certain tract or parcel of land located in Fleming County, Kentucky, and being more particularly described as follows:

A tract of land fronting on Kentucky Highway 3301 and on the East side thereof and bordered by the property of Adrian Williams and Shirley Williams and Salyers and containing 0.30 acres, more or less.

Being the same property conveyed to Adrian Williams and Shirley Williams, husband and wife, from Leroy Yoder, Jr. and Mary A. Yoder, husband and wife, by a deed of conveyance dated April 1, 1993, of record in Deed Book 176, Page 398, of the Fleming County Clerk's Office.

TRACT NO. II

Property located in Fleming County, Kentucky, and more particularly described as follows:

BEGINNING at post, corner to Clarence Gray; thence with his lines N 63 ½ W 600 feet to a sycamore; thence N 24 W 194 feet to a post; thence N 44 W 66 feet to an elm; thence N 13 ½ W 200 feet to a post; thence N 19 ½ W 182 feet to a post; thence N 79 ½ W 234 feet to a walnut; thence S 82 W 253 feet to a walnut; thence N 41 ½ W 107 feet to a buckeye; thence N 86 W 106 feet to a dead ash; thence N 30 W 30 feet to an elm; thence S 58 W 50 feet; N 80 W 145 feet; N 55 W 136 feet to a sycamore; thence crossing the branch S 52 W 48 feet to an ash; thence S 69 ¼ feet to a gum; thence N 85 W 1133 feet to a post; thence 8 13 ½ E 2739 feet to a post corner to Irvin Ham's; thence N 71 ½ E 600 feet to the western side of passway; thence S 17 17 E 1563 feet to the center of County Road; thence N 71 ½ E 24 feet; thence N 17 W 1563 feet to a post, corner to Howard Sousley; thence with his line N 71 ½ E 1718 feet to a post; thence S 17 E 18 feet to a post; thence N 71 ½ E 176 feet to a post; thence N 11 W 831 feet to the beginning, containing 124.93 acres plus the roadway 0.87 acre.

Being same property conveyed to LeRoy Yoder, Jr. and Macy A. Yoder, his wife, from Abe Troyer, Jr. and Mattie Troyer, his wife, by a deed of conveyance dated May 12, 1997, of record in Deed Book 189, Page 607, of the Fleming County Clerk's Office.

TRACT NO. III

A certain tract of land fronting on Kentucky Highway No. 3301, located near Beechburg & Fleming County, Kentucky, and which is more particularly described as follows:

BEGINNING at an iron corner of Adrian and Shirley Williams and in the right of way fence line of Kentucky 3301; thence with the Williams line N 73 deg. 50' 11" W for 256.67 feet; thence N 63 deg. 52' 02" W for 255.84 feet to a stake; thence N 66 deg. 21' 06" W for 283.02 feet to a stake; thence S 13 deg. 47' 52" W for 250.38 feet to a point; thence with the H.T. Fearin line fence S 73 deg. 51' 14" E 816.53 feet to a point in the right of way of Kentucky 3301 and being 20.00 feet from center of said road; thence N 3 deg. 08' 20" E for 180.11 feet to the beginning at an iron rod 35.00 feet from center of Kentucky 3301. This parcel contains 3.6384 acres.

Being the same property conveyed to Leroy S. Yoder, Jr. and Mary A. Yoder, husband and wife, from Adrian Williams and Shirley Williams, husband and wife, by a deed of conveyance dated February 24, 1993, of record in Deed Book 176, Page 286, of record in the Fleming County Clerk's Office.

SAVE AND EXCEPT that certain tract or parcel of land in deed dated August 18, 2019, recorded August 28, 2019 in Deed Book 272, Page 390, and more particularly described as follows:

Being a 0.866 'acre tract of land located along Botkins Lane approximately 0.7 miles North of KY HWY 559 in Fleming County, Kentucky and being more particularly described as follows:

Beginning at an iron pin & cap set on the East side of the gravel drive corner to Spencer & Rebecca Rapp Deed Book 226, Page 57 at the North West corner of Marvin & Violet Lengacher Deed Book 237 Page 223 (PC 1 Slide 156); Thence along the Lengacher line and the East side of the gravel drive S10°37'29"E a distance of 564.37' to a W' iron pin and cap found (LS 2380); Thence continuing along the Lengacher line S11°30'14"E a distance of 689.83' to an iron pin and cap set; Thence S13°57'34"E a distance of 316.51' to a ½" iron pin and cap found (LS 2380) near the turn in Botkins Lane; Thence

leaving the Legacher line and crossing the gravel lane S 76°02'26"W a distance of 24.00' to an iron pin and cap set near the West side of gravel and corner to Kimberly D. Jones DB 255 PG 513 WB 7 PG 74; Thence with a line parallel to the Lengacher line along the Jones line and the West side of 11 gravel drive N 13°57'34"W a distance of 317.03' to an iron pin & cap set; Thence continuing along the same N 11°30'14"W a distance of 690.52' to an iron pin and cap set; Thence N 10°37'29.11W a distance of 564.09' to an iron pin and cap set corner to Rapp and Jones; Thence along the new line of Rapp and crossing the gravel drive N78°15'29"E a distance of 24.00' to the point of beginning containing 0.866 acres according to the survey by Travis A. McGlone PLS 3919 of Buffalo Trace Surveying, LLC 5/7/2019 (Field survey completed on 5/1/2019 with a Topcon 236w total station as an urban class survey having an unadjusted traverse closure of 1:28,707 as shown in file 2019/Lowe Mark and reviewed 5/7/2019).

All iron pin & caps set were ½" x 18" rebar with an orange plastic cap stamped "T. McGlone PLS 3919."

Magnetic North Bearing observed along a random traverse line on date of survey 5/1/2019 (N5W).

Property subject to all legal right of ways, easements of record, unrecorded conveyances and existing right of way for Botkins Lane for benefit of the Fleming County Fiscal Court (Ordinance 05-005 40' total R/W).

Being a portion of the property conveyed to Spencer & Rebecca Rapp by deed recorded at the Fleming County Clerk's Office in Deed Book 226, Page 57.

Tax ID No.: 071-00-00-004.00

EXHIBIT A

DEPICTION OF LAND

Property located in Fleming County, Kentucky, commonly identified as APN: 071-00-00-004.00 and in the location more particularly depicted as follows:

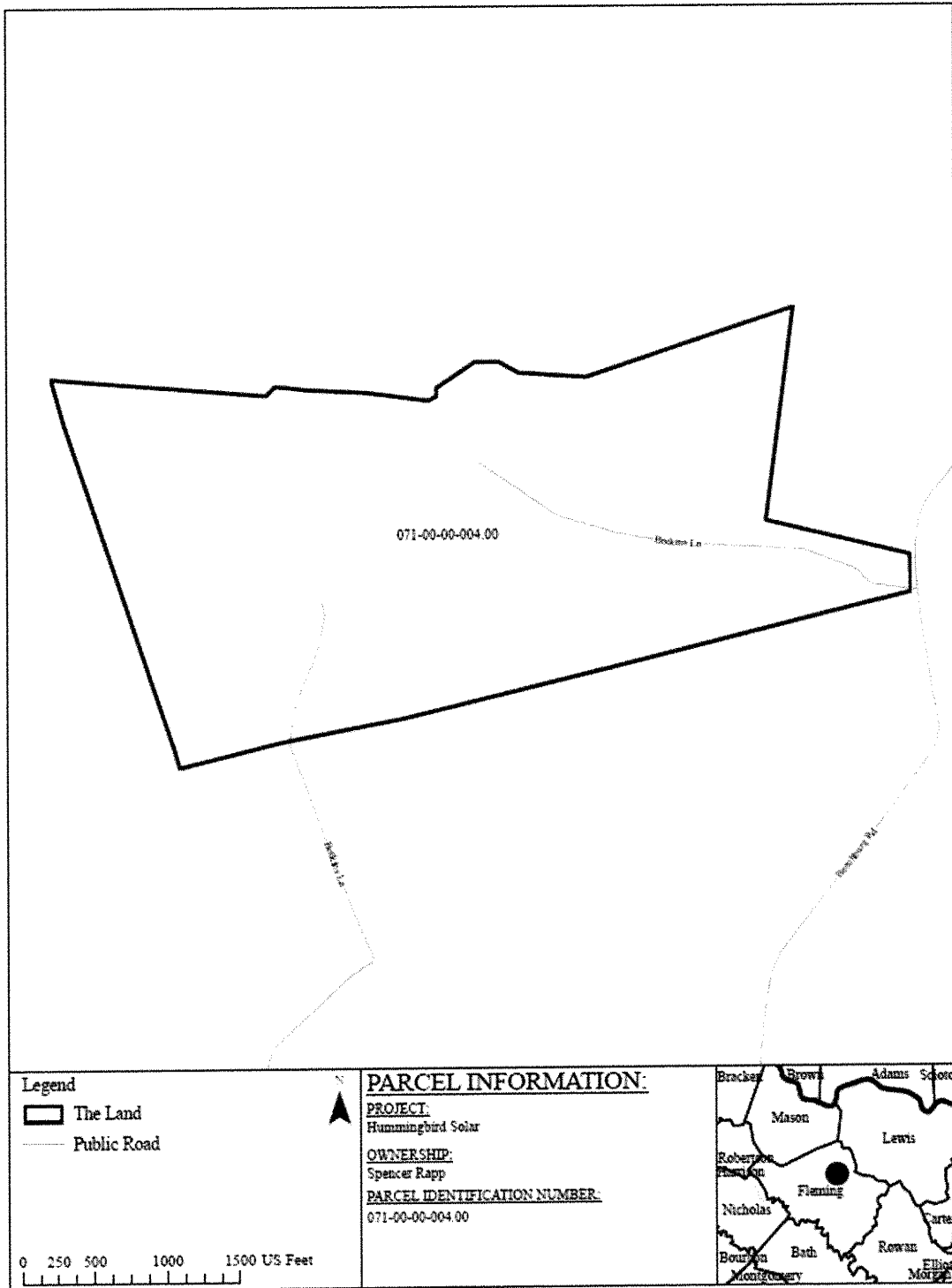


EXHIBIT B

TERMINATION AGREEMENT
AMENDED AND RESTATED OPTION AGREEMENT FOR
THE PURCHASE AND SALE OF REAL PROPERTY

APN [_____, _____], [_____] COUNTY, [_____]

THIS TERMINATION AGREEMENT (this "Termination Agreement"), dated as of [_____, _____], 202__ (the "Termination Date"), is entered into by and between [_____, _____], a [_____] ("Seller"), and Hummingbird Solar LLC, a Kentucky limited liability company ("Purchaser").

RECITALS

A. Purchaser and Seller are parties to that certain Amended and Restated Option Agreement for the Purchase and Sale of Real Property, dated as of [_____, _____], 202__ (the "Option Agreement"), pursuant to which Seller granted Purchaser an exclusive and irrevocable option to purchase from Seller certain real property located in [_____] County, Kentucky (APN: _____) on the terms and conditions set forth in the Option Agreement.

B. Pursuant to Section 2(b) of the Option Agreement, Purchaser has the right to terminate the Option Agreement at any time prior to the end of the Option Term in its sole and absolute discretion and for any or for no reason whatsoever.

C. Purchaser has elected to terminate the Option Agreement pursuant to Section 2(b) thereof, and Purchaser and Seller desire to enter into this Termination Agreement in order to evidence such termination and to release one another from their respective obligations thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties hereby agree as follows:

1. Defined Terms. Initially capitalized terms used but not defined herein have the meanings set forth in the Option Agreement.

2. Termination of the Option Agreement. Purchaser has terminated the Option Agreement by notice dated [_____, _____], 202__, and Purchaser and Seller hereby agree that the Option Agreement has terminated without liability to either party and is of no further force or effect.

3. Release of Liability. Except as otherwise provided herein, Purchaser and Seller are fully and unconditionally released and discharged from their respective obligations under the Option Agreement, whether arising before or after the termination and including with respect to the payment of any consideration thereunder.

4. Surrender of Property. Purchaser acknowledges its release and surrender to Seller of all of any right, title and interest in and to the Property and hereby agrees to vacate the Property.

5. Successors and Assigns. This Termination Agreement shall be binding upon and shall inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

6. Counterparts. This Termination Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by all parties.

7. Governing Law. This Termination Agreement shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Kentucky.

8. Documentation. Each party shall execute and deliver such additional instruments, agreements, and documents and take such other actions as the other party may reasonably require in order to carry out the intent and purpose of this Termination Agreement.

9. Severability. If any term or provision of this Termination Agreement shall be held invalid or unenforceable, the remainder of this Termination Agreement shall not be affected.

10. No Third Party Beneficiaries. This Termination Agreement is solely for the benefit of Purchaser and Seller and their successors and permitted assigns and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Termination Agreement to be executed and delivered as of the day and year first written above.

PURCHASER:

Hummingbird Solar LLC,
a Kentucky limited liability company

SELLER:

[_____]
a [_____]

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT C

FORM OF SPECIAL WARRANTY DEED

RECORDING REQUESTED BY and
WHEN RECORDED RETURN IT
AND ALL TAX STATEMENTS TO:

c/o [_____] _____
[mailing address]
Attention: [_____]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made and entered into as of the ____ day of _____, _____, between (a) [_____] ("Grantor") and having an address of _____, and (b) **HUMMINGBIRD SOLAR LLC**, a Kentucky limited liability company ("Grantee") and having an address of _____, which is the in care of address for Grantee to which tax bills may be sent.

WITNESSETH

For a total consideration of \$_____, the receipt and sufficiency of which are acknowledged, Grantor grants and conveys to Grantee in fee simple with covenant of Special Warranty certain real property located in Fleming County, Kentucky and more particularly described on EXHIBIT A attached hereto and made a part hereof together with all right, title and interest in and to all improvements located thereon, and all air rights, development rights, mineral rights, water rights, entitlements, appurtenances, rights and privileges appertaining thereto, and all right, title and interest in, to and under adjoining streets, rights of way and easements (the "Property").

Grantor covenants (a) lawful seisin of the Property (b) full right and power to convey same, and (c) that the Property is free and clear of all liens and encumbrances by or in favor of any party claiming by, through or under Grantor except liens for real property taxes and assessments due and payable in _____ and thereafter, which Grantee assumes and agrees to pay. This conveyance is made subject to all (i) easements, restrictions and stipulations of record, and (ii) governmental laws, ordinances and regulations affecting the Property.

For purposes of KRS 382.135, Grantor and Grantee, by execution of this Special Warranty Deed, certify that the consideration recited above is the full consideration paid by Grantee to Grantor for the Property.

[Signature Page Follows]

IN WITNESS WHEREOF, Grantor and Grantee duly executed this Deed as of the date first set forth above.

GRANTOR:

[]

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing Special Warranty Deed, including the consideration certificate contained therein, was sworn to and acknowledged before me on _____, ____ by [].

Notary Public
My Commission Expires: _____

GRANTEE:

HUMMINGBIRD SOLAR LLC,
a Kentucky limited liability company

By: _____

Title: _____

STATE OF _____)

) SS

COUNTY OF _____)

The foregoing consideration certificate was sworn to and acknowledged before me on _____, ____ by _____ as _____ of Hummingbird Solar LLC, a Kentucky limited liability company, on behalf of such company

Notary Public
My Commission Expires: _____

This instrument was prepared by:

Brian D. Zoeller, Esq.
Frost Brown Todd LLC
400 W Market Street, Suite 3200
Louisville, KY 40202

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

Property located in _____ County, _____, more particularly described as follows:

[TO BE ATTACHED]

EXHIBIT B TO SPECIAL WARRANTY DEED

PERMITTED EXCEPTIONS

[TO BE ATTACHED]

EXHIBIT D

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY and
WHEN RECORDED RETURN TO:

Hummingbird Solar LLC
c/o Geenex Solar
7804-C Fairview Rd. #257
Charlotte, NC 28226
Attention: Walter Putnam

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

This MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT (this "Memorandum") is dated and made as of _____, 202__, by and between [_____] ("Owner"), and Hummingbird Solar LLC, a Kentucky limited liability company ("Optionee").

WHEREAS:

A. Owner owns the real property more particularly described and depicted on Exhibit A attached hereto, which by this reference is incorporated herein (the "Property").

B. Owner and Optionee entered into that certain Option Agreement for the Purchase and Sale of Real Property dated as of February 12, 2020 (the "Original Option Agreement Date") (the "Original Option Agreement"), to provide an option in favor of Optionee to purchase all of the Property according to the terms and conditions contained therein.

C. Owner and Optionee desiring to amend and restate the Original Option Agreement have entered into that certain Amended and Restated Option Agreement for the Purchase and Sale of Real Property dated as of _____, 202__ (the "Option Agreement"), which is incorporated herein by reference as though fully set forth herein, to amend the Original Option Agreement. The consideration for the Option Agreement is included therein.

D. The Option Term is effective through December 31, 2025.

Owner and Optionee desire to enter into this Memorandum which is to be recorded in order that third parties may have notice of the interests of Optionee in the Property and of the existence of the Original

Option Agreement and the Option Agreement.

NOW, THEREFORE, in consideration of the payments and covenants provided in the Option Agreement to be paid and performed by Optionee, Owner hereby grants to Optionee an option to purchase all of the Property on the terms and conditions set forth in the Option Agreement. All of the terms, conditions, provisions and covenants of the Option Agreement are hereby incorporated into this Memorandum by reference as though fully set forth herein, and the Option Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

All capitalized terms used but not defined herein shall have the meanings assigned to them in the Option Agreement. Should there be any inconsistency between the terms of this Memorandum and the Option Agreement, the terms of the Option Agreement shall prevail.

This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be an original, and each such counterpart shall, when combined with all other such counterparts, constitute one agreement binding on the parties hereto.

[Remainder of page intentionally left blank; signature page follows.]

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, a Notary Public in and for said state, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by his or her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State

EXHIBIT A TO MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

LEGAL DESCRIPTION OF THE PROPERTY

Property located in Fleming County, Kentucky, commonly identified as APN: **071-00-00-004.00** and in the location more particularly described as follows:

TRACT NO. I

PARCEL NO. I:

A certain tract of land located in Fleming County, Kentucky, and being more particularly described as follows:

BEGINNING, at the edge of Kentucky Highway #3301 and corner to Second Parties other property; thence N 75 deg. W 848.5 feet; thence N 08 deg. E 1811 feet; thence S 68 deg. W 774.5 feet; thence S 63 deg. W 438 feet; thence S 02 deg. W 48 feet; thence N 84 deg. W 425 feet; thence N 54 deg. W 120 feet; thence N 83 deg. W 200 feet; thence S 45 deg. W 172 feet; thence S 16 deg. E 208 feet; thence S 13 deg. E 400 feet; thence S 52 deg. E 57 feet; thence S 22 deg. E 200 feet; thence S 60 deg. E 600 feet; thence S 07 deg. E 839 feet; thence N 76 deg. E 1644 feet; thence N 00 deg. E 70 feet to the beginning, containing 67.136 acres, more or less.

PARCEL NO. II:

A tract of land fronting on Kentucky Highway 3301 and on the East side thereof and bordered by the property of Adrian William and Shirley Williams, and containing .30 acres, more or less.

Being the same property conveyed to LeRoy Yoder, Jr. and Mary A. Yoder, his wife, from Stove Fearin and Cathy Fearin.; his wife, by a deed of conveyance dated April 1, 1993, of record in **Deed Book 176, Page 393**, of the Fleming County Clerk's Office.

THERE IS EXCEPTED AND NOT HEREIN CONVEYED, the following described property;

A certain tract or parcel of land located in Fleming County, Kentucky, and being more particularly described as follows:

A tract of land fronting on Kentucky Highway 3301 and on the East side thereof and bordered by the property of Adrian Williams and Shirley Williams and Salyers and containing 0.30 acres, more or less.

Being the same property conveyed to Adrian Williams and Shirley Williams, husband and wife, from Leroy Yoder, Jr. and Mary A. Yoder, husband and wife, by a deed of conveyance dated April 1, 1993, of record in Deed Book 176, Page 398, of the Fleming County Clerk's Office.

TRACT NO. II

Property located in Fleming County, Kentucky, and more particularly described as follows:

BEGINNING at post, corner to Clarence Gray; thence with his lines N 63 ½ W 600 feet to a sycamore; thence N 24 W 194 feet to a post; thence N 44 W 66 feet to an elm; thence N 13 ½ W 200 feet to a post; thence N 19 ½ W 182 feet to a post; thence N 79 ½ W 234 feet to a walnut; thence S 82 W 253 feet to a walnut; thence N 41 ½ W 107 feet to a buckeye; thence N 86 W 106 feet to a dead ash; thence N 30 W 30 feet to an elm; thence S 58 W 50 feet; N 80 W 145 feet; N 55 W 136 feet to a sycamore; thence crossing the branch S 52 W 48 feet to an ash; thence S 69 1/4 feet to a gum; thence N 8S W 1133 feet to a post; thence 8 13 ½ E 2739 feet to a post corner to Irvin Ham's; thence N 71 ½ E 600 feet to the western side of passway; thence S 17 17 E 1563 feet to the center of County Road; thence N 71 ½ E 24 feet; thence N 17 W 1563 fence to a post, corner to Howard Sousley; thence with his line N 71 ½ E 1718 feet to a post; thence S 17 E 18 feet to a post; thence N 71 ½ E 176 feet to a post; thence N 11 W 831 feet to the beginning, containing 124.93 acres plus the roadway 0.87 acre.

Being same property conveyed to LeRoy Yoder, Jr. and Macy A. Yoder, his wife, from Abe Troyer, Jr. and Mattie Troyer, his wife, by a deed of conveyance dated May 12, 1997, of record in Deed Book 189, Page 607, of the Fleming County Clerk's Office.

TRACT NO. III

A certain tract of land fronting on Kentucky Highway No. 3301, located near Beechburg & Fleming County, Kentucky, and which is more particularly described as follows:

BEGINNING at an iron corner of Adrian and Shirley Williams and in the right of way fence line of Kentucky 3301; thence with the Williams line N 73 deg. 50' 11" W for 256.67 feet; thence N 63 deg. 52' 02" W for 255.84 feet to a stake; thence N 66 deg. 21' 06" W for 283.02 feet to a stake; thence S 13 deg. 47' 52" W for 250.38 feet to a point; thence with the H.T. Fearin line fence S 73 deg. 51' 14" E 816.53 feet to a point in the right of way of Kentucky 3301 and being 20.00 feet from center of said road; thence N 3 deg. 08' 20" E for 180.11 feet to the beginning at an iron rod 35.00 feet from center of Kentucky 3301. This parcel contains 3.6384 acres.

Being the same property conveyed to Leroy S. Yoder, Jr. and Mary A. Yoder, husband and wife, from Adrian Williams and Shirley Williams, husband and wife, by a deed of conveyance dated February 24, 1993, of record in Deed Book 176, Page 286, of record in the Fleming County Clerk's Office.

SAVE AND EXCEPT that certain tract or parcel of land in deed dated August 18, 2019, recorded August 28, 2019 in Deed Book 272, Page 390, and more particularly described as follows:

Being a 0.866 'acre tract of land located along Botkins Lane approximately 0.7 miles North of KY HWY 559 in Fleming County, Kentucky and being more particularly described as follows:

Beginning at an iron pin & cap set on the East side of the gravel drive corner to Spencer & Rebecca Rapp Deed Book 226, Page 57 at the North West corner of Marvin & Violet Lengacher Deed Book 237 Page 223 (PC 1 Slide 156); Thence along the Lengacher line and the East side of the gravel drive S10°37'29"E a distance of 564.37' to a W' iron pin and cap found (LS 2380); Thence continuing along the Lengacher line S11°30'14"E a distance of 689.83' to an iron pin and cap set; Thence S13°57'34"E a distance of 316.51' to a ½" iron pin and cap found (LS 2380) near the turn in Botkins Lane; Thence leaving the Lengacher line and crossing the gravel lane S 76°02'26"W a distance of 24.00' to an iron pin and cap set near the West side of gravel and corner to Kimberly D. Jones DB 255 PG 513 WB 7

PG 74; Thence with a line parallel to the Lengacher line along the Jones line and the West side of 11 gravel drive N 13°57'34"W a distance of 317.03' to an iron pin & cap set; Thence continuing along the same N 11°30'14"W a distance of 690.52'to an iron pin and cap set; Thence N 10°37'29"11W a distance of 564.09' to an iron pin and cap set corner to Rapp and Jones; Thence along the new line of Rapp and crossing the gravel drive N78°15'29"E a distance of 24.00' to the point of beginning containing 0.866 acres according to the survey by Travis A. McGlone PLS 3919 of Buffalo Trace Surveying, LLC 5/7/2019 (Field survey completed on 5/1/2019 with a Topcon 236w total station as an urban class survey having an unadjusted traverse closure of 1:28,707 as shown in file 2019/Lowe Mark and reviewed 5/7/2019).

All iron pin & caps set were ½" x 18" rebar with an orange plastic cap stamped "T. McGlone PLS 3919."

Magnetic North Bearing observed along a random traverse line on date of survey 5/1/2019 (N5W).

Property subject to all legal right of ways, easements of record, unrecorded conveyances and existing right of way for Botkins Lane for benefit of the Fleming County Fiscal Court (Ordinance 05-005 40' total R/W).

Being a portion of the property conveyed to Spencer & Rebecca Rapp by deed recorded at the Fleming County Clerk's Office in Deed Book 226, Page 57.

Tax ID No.: 071-00-00-004.00

EXHIBIT A TO MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT

DEPICTION OF LAND

Property located in Fleming County, Kentucky, commonly identified as APN: **071-00-00-004.00** and in the location more particularly depicted as follows:

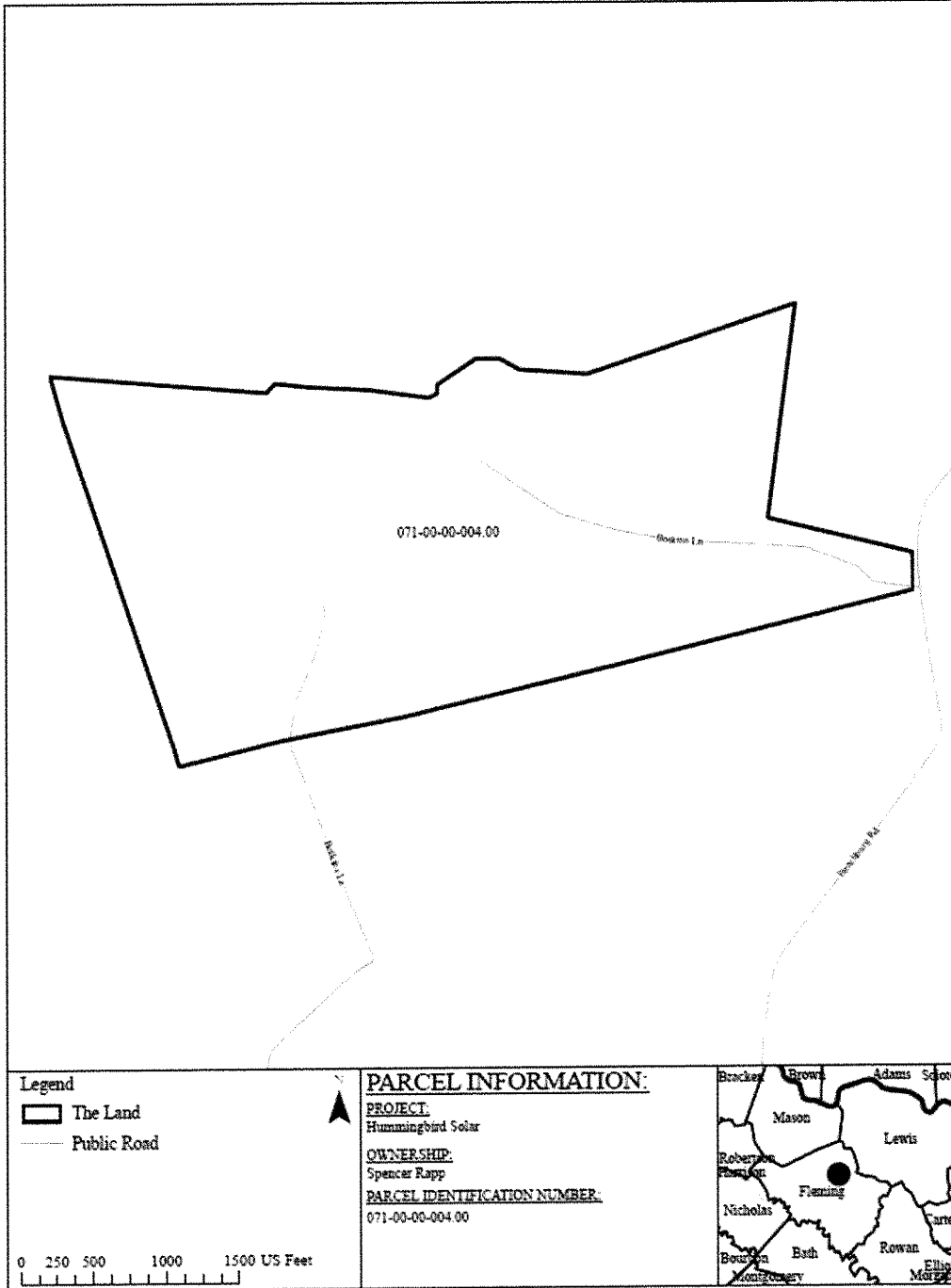


EXHIBIT D-1

Recording requested by
and when recorded mail to:

Hummingbird Solar LLC
c/o []
[]
[]
Attn: []

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TERMINATION OF [MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT]

THIS TERMINATION OF MEMORANDUM OF AMENDED AND RESTATED OPTION AGREEMENT ("Termination") is made as of the ____ day of ____, 20__ by HUMMINGBIRD SOLAR LLC, a Kentucky limited liability company ("Grantor").

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby remises, releases and forever quitclaims unto [____], all of Grantor's rights and interests in the real property more particularly described in Exhibit A attached hereto, which Grantor may have acquired pursuant to that certain [**Amended and Restated Option Agreement for the Right to Purchase Property**], dated as of [____], a memorandum of which was recorded on [____] as Instrument Number [____], in Volume [____], Page [____], in the Official Records of [____] County, [____], [as affected by (**Amendment to Amended and Restated Option Agreement for the Purchase and Sale of Real Property**) dated _____, an amendment to memorandum of which was recorded on [] as Instrument Number [], in Volume [], Page [], in the Official Records of _____ County, STATE]

IN WITNESS WHEREOF, Grantor has executed this Termination as of the date first above written.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A
to Termination of Memorandum of Amended and Restated Option Agreement

Legal Description

Exhibit D-1 Page 3

Spencer Rapp and Rebecca Rapp

Fleming County, Kentucky