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SOLAR POWER FACILITY SITE LEASE AGREEMENT

This Solar Power Facility Site Lease Agreement (the "Lease" or the "Agreement") is made and entered into as of January 28, 2021 (the "Execution Date"), between **BREIT INDUSTRIAL CANYON NJ2B01 LLC**, a Delaware limited liability company ("Lessor"), and **SRE SOLAR ORIGINATION 2, LLC**, a Delaware limited liability company ("Lessee").

OPERATIVE TERMS

In consideration of the mutual covenants and agreements set forth in this Lease, Lessor and Lessee agree as follows:

ARTICLE 1
DEFINITIONS

For the purposes of this Lease, the following terms shall have the following meanings:

"Affiliate" means, when used in reference to a specified Person, any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the specified Person.

"Attorneys' Fees" means reasonable attorneys' and court fees and costs incurred by a Party, including attorneys' and court fees and cost for trial and appellate proceedings.

"Base Rent" has the meaning set forth in Article 4.1.

"Building" shall mean the building that is located on the Property.

"Building Leases" has the meaning set forth in Section 6.7.

"Casualty" means damage or destruction by fire or other casualty to the Solar Power Facilities or the Premises.

"Commercial Operation Date" has the meaning set forth in Article 3.1.

"Common Areas" shall mean all parking areas (as may be expressly limited herein), pedestrian walkways, driveways and access roads, entrances and exits, and landscaped areas on the Property.

"Due Diligence Period" has the meaning set forth in Article 3.2.

"Event of Default" has the meaning set forth in Article 19.1.

"Execution Date" has the meaning set forth in the introductory paragraph of this Lease.

"Financing Parties" shall mean (x) any individual, entity, financial institution, leasing company, tax credit aggregator, or lender providing funds or extending credit to Lessee or its Affiliates and (y) any collateral or administrative agent acting on behalf of any such individual, entity, financial institution, leasing company, or lender in connection with such financing.

"Force Majeure" means events or circumstances, whether foreseen or unforeseen, beyond the reasonable control and not the fault of a non-performing Party, including (i) acts of God, (ii) sabotage, riots or civil disturbances, strikes or similar labor difficulties, (iii) volcanic eruptions, earthquake, hurricane, flood, ice storms, explosion, fire, lightning, landslide or similar occurrence, (iv) war or acts of terrorism affecting the Property, (v) change of law imposing regulatory burden or prohibition upon Lessee, (vi) withdrawal of required governmental authorizations or permits, (vii) damage to or breakdown of necessary facilities or transportation delays or accidents, (viii) acts of vandalism, (ix) requirement by a utility that a Solar Power Facility discontinue operation for any reason, (x)

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appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, (xi) pandemics (including without limitation the current pandemic of COVID-19), (xii) any other action by any governmental authority which prevents or prohibits the Parties from carrying out the respective obligations under this Lease; provided, however, "Force Majeure" shall not (x) include economic hardship or inability to obtain financing of either Party, nor (y) excuse performance by either Party of any monetary or payment obligations, including without limitation, the payment of Base Rent hereunder.

"Governmental Approvals" has the meaning set forth in Article 5.

"Hazardous Materials" means any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous substances, toxic substances, pollutants, contaminants, radon, asbestos, lead or lead based paint, oil and petroleum products and their by-products, polychlorinated biphenyls or related materials, and mold, dangerous fungi, bacterial or microbial matter contamination or pathogenic organisms that reproduce through the release of spores or the splitting of cells, as those terms may be used or defined in any Law.

"HVAC Units" shall mean any heating, ventilation, or air conditioning units or equipment serving the Building or the Property.

"Indemnified Party" has the meaning set forth in Article 10.1.

"Indemnifying Party" has the meaning set forth in Article 10.1.

"Laws" means all laws, ordinances, and regulations applicable to the Property, the Premises, or any Solar Power Facility now or hereafter enacted by any Federal, state, or local governmental or quasi- governmental body.

"Lender" shall mean any Person providing financing for the construction and/or operation of the Solar Power Facilities.

"Lessor Parties" shall mean Lessor and its employees, directors, officers, managers, members, shareholders, subsidiaries and agents.

"Parties" means Lessor and Lessee.

"Party" means Lessor or Lessee.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee, estate, limited liability company, unincorporated organization, real estate investment trust, government or any agency or political subdivision thereof, or any other form of entity.

"Premises" has the meaning set forth in Article 2.1.

"Property" has the meaning set forth in Article 2.1.

"Security Instrument" has the meaning set forth in Article 16.1.

"Security Interest" has the meaning set forth in Article 14.1(a).

"Solar Power Facilities" or "Solar Power Facility" means collectively or individually one or more electricity grid-connected photovoltaic, solar power plants and other equipment and facilities to be constructed, installed and maintained by Lessee.

"Term" has the meaning set forth in Article 3.

"Term Notice" has the meaning set forth in Article 3.2.

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"Utility" means the local electric utility.

ARTICLE 2
GRANT OF LEASEHOLD AND EASEMENT RIGHTS

2.1 **Grant of Lease Interest**. In consideration of the mutual covenants and agreements set forth in this Lease, Lessor hereby grants and demises to Lessee an exclusive Lease to those certain premises described on the attached **Exhibit B**, which are a portion of the rooftop of the Building on the Property (as defined below) (the "Premises"), subject to the terms of this Lease. Lessor and Lessee acknowledge that **Exhibit B** may be modified after construction of the Solar Power Facility based on as-built drawings reflecting changes required prior to or during construction and may be surveyed at Lessee's option and cost. The Premises are located on that certain parcel of real property owned by Lessor and more particularly described on **Exhibit A** (the "Property") and Lessor hereby grants to Lessee a non-exclusive Lease for ingress and egress across and over the Property to access the Premises to perform the Operations (as defined below) during the Term and any Extension Term. Lessee shall have the right to occupy and use the Premises to construct the Solar Power Facilities, for solar energy conversion, for the collection and transmission of electric power, and for related and incidental purposes and activities, and no other purpose (collectively, "Operations"). Lessee shall perform its Operations in compliance with all applicable Laws. The Premises shall be used only for the permitted use set forth herein and for no other use or purpose. Lessee shall not commit, or permit to be committed, any conduct or condition which would constitute a nuisance or would disturb, endanger or otherwise interfere with any occupants of the Building (whether through odors, noise, vibrations or otherwise), the management of the Building or the performance of Lessor's obligations under this Lease. If an alteration to the Premises, the Building or the Property becomes required under any applicable Law (or if any such requirement is enforced) as a result of any act or omission of Lessee (including, without limitation, an alteration made by Lessee or any use or manner of use of the Premises other than the permitted use), then Lessee shall upon Lessor's demand and option, either make such alteration at Lessee's sole cost or pay Lessor the cost of making such change within 10 days after being billed therefor. Lessee shall comply with any rules and regulations for the Building as Lessor may from time to time reasonably prescribe.

2.2 **Exclusive Right to Solar Resources on Premises**. Lessee shall have the sole and exclusive right to convert all of the solar resources of, and to conduct Operations on, the Premises. Lessor shall not grant any rights in the Property purporting to permit others to conduct Operations on the Property in derogation of Lessee's sole and exclusive rights and privileges hereunder. Without the prior written consent of Lessee, Lessor shall not (i) waive any right available to Lessor or grant any right or privilege subject to the consent of Lessor by law or contract, including without limitation any environmental regulation, land use ordinance or zoning regulation, with respect to setback requirements, or other restrictions and conditions respecting the placement of the Solar Power Facility on the Premises or (ii) grant, confirm, acknowledge, recognize or acquiesce in any right claimed by any other person to conduct Operations on the Premises, and Lessor agrees to give Lessee notice of any such claims and to cooperate with Lessee in resisting and disputing such. Notwithstanding anything to the contrary set forth in this Lease, Lessor hereby expressly reserves the right to develop other parts of the Property which are not part of the Premises with solar power facilities.

2.3 **Grant of Lease and Other Rights**. In further consideration of the mutual covenants and agreements set forth in this Lease, Lessor hereby grants to Lessee, for no additional consideration and for the period of construction of the Solar Power Facility, a Lease to use the area shown on **Exhibit C** as laydown area.

2.4 **Signage**. Lessor shall grant to Lessee a Lease during the Term of this Lease to display reasonable signage at a location to be agreed to between Lessor and Lessee. The signage shall be approved or denied in Lessor's sole and absolute discretion; however, in no event shall Lessor's approval or denial result in Lessee's inability to place statutorily required safety signage. Lessee's signage shall be subject and subordinate to the rights of any building Lessees on the Property.

2.5 **Lessor's Reserve Areas**. Subject to the terms and conditions of this Lease, Lessor shall have the right to use the roof of the Building and the parking lot within the areas reserved to Lessor as specified in **Exhibit B** (**"**Reserve Areas") in Lessor's sole discretion including, without limitation, for heating, ventilation and air conditioning ("HVAC Units") units, antennas and other communication equipment, water collection facilities and/or

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such other equipment as Lessor shall deem reasonably necessary or appropriate. Subject to the terms and conditions of this Lease, Lessor shall have the right to install, repair and maintain HVAC Units existing on the roof of the Building outside of the Reserve Areas as of the Effective Date provided that: (a) if Lessor desires to install a new HVAC Unit where no HVAC Unit existed as of the Effective Date; or (b) Lessor desires to replace an existing HVAC Unit with a materially larger unit; and (c) in the event it is determined by Lessee that these changes will materially and adversely impact Lessee's operation of the Solar Power Facilities; then Lessor shall provide Lessee with plans and specifications for the new or larger HVAC Unit and allow Lessee the opportunity to review such plans and specifications. Further, Lessor shall use commercially reasonable efforts to address any reasonable concerns raised by Lessee regarding the potential effect of the new or larger HVAC Unit on the Solar Power Facilities. Notwithstanding anything to the contrary contained herein, to the extent that Lessor makes changes to the HVAC or exercises any rights pursuant to this Section 2.5 that impact the operation of or production from the Solar Power Facilities, Lessee shall be entitled to Lost Energy Revenue for the diminution in production.

2.6 **Entry by Lessor.** Lessor reserves the right at all reasonable times and upon reasonable notice (which may be by telephone) to Lessee (except in the case of an Emergency in which event no notice shall be required) to enter the Premises to (i) inspect them; or (ii) to alter, improve or repair the Premises or the Building (but not the Solar Power Facilities), or for structural alterations, repairs or improvements to the Building or the Building's systems and equipment.

2.7 **Ongoing Building Access.** After completion of Lessee's Work, and subject to the rights of any Lessees under any Building Leases, Lessee, its agents, employees and contractors shall have the ongoing right to access the Premises twenty-four (24) hours per day, seven (7) days per week, and shall have the right to use parking spaces serving the Building to park, but not store, Lessee's vehicles in the common parking areas serving the Building free of charge provided that Lessee shall not use more than one parking space at any time without Lessor's prior written approval, not to be unreasonably withheld, conditioned or delayed, and further provided there is no unreasonable or material interference with the access of Lessor or its Lessees to the Building parking lots, loading docks and truck courts. Such access shall be limited to such access as is necessary to maintain, operate, service, repair, replace, make alterations to, and remove the Solar Power Facilities for the Term upon not less than forty-eight (48) hours prior notice to Lessor, which may be telephonic, (except that no notice shall be required in case of an Emergency) during reasonable and normal business hours (unless Lessor reasonably consents otherwise). Lessee shall have no right to access the interior of the Building. Except as expressly set forth herein, access to the Premises by Lessee shall be limited to exterior methods including a bucket lift or an exterior ladder and in no event shall Lessee have any right to access the Premises through internal means without Lessor's prior written consent otherwise, which consent may be withheld at Lessor's sole discretion.

ARTICLE 3
TERM; CONDITIONS PRECEDENT

3.1 **Term**. The term ("Term") of this Lease shall begin on the Execution Date and shall expire on the twenty (20th) anniversary of the commercial operation date of the Solar Power Facility (the "Commercial Operation Date"). In no event shall the Commercial Operation Date occur later than September 30, 2022. Notwithstanding anything to the contrary set forth in this Agreement, Lessor shall have the right, in its sole and absolute discretion and subject to payment of the applicable termination fee as set forth on **Exhibit E** attached hereto (the "Termination Payment"), to terminate this Agreement in whole or in part at any time during the term hereof upon thirty (30) days prior written notice to Lessee.

3.2 **Conditions Precedent**. In the event that Lessee is not able to satisfy the conditions precedent set forth below, and elects not to waive any conditions precedent not so achieved, by the date which is one hundred twenty (120) days after the date that Lessee receives notice of award of a contract (the "Solar Program Contract") under the New Jersey Community Solar Program (such 120-day period being the "Due Diligence Period") on terms and conditions reasonably acceptable to Lessee in its sole discretion (the "Award Date"), Lessee shall be entitled to terminate this Lease, and neither Party shall have any obligation or financial liability to the other Party as a result of such termination. If Lessee does not terminate this Lease by the expiration of the Due Diligence Period, Lessee will be deemed to have waived its right to terminate under this Section 3.2. The conditions precedent are as follows:

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a) Lessee obtaining all Government Approvals (as defined in Article 5), on terms and conditions reasonably acceptable to Lessee in its sole discretion;

b) Notice to Proceed, as will be defined in the engineering procurement and construction contract entered into for construction of the Project, being received by December 31, 2021;

c) Lessee obtaining an interconnection agreement from the applicable New Jersey utility (the "Interconnecting Utility") with terms reasonably acceptable to Lessee; and,

d) Lessee obtaining all appropriate corporate consents and approvals within thirty (30) days after the Award Date. For purposes of this Section 3.2, Lessee's receipt of notice that it is on a wait list (or substantially equivalent conditional notice) for a Solar Program Contract shall not constitute receipt of a Solar Program Contract resulting in an Award Date.

Lessee shall notify Lessor in writing when the conditions precedent have been satisfied or waived by Lessee (the "Term Notice") and in such Term Notice, Lessee shall specify the Commercial Operation Date. Notwithstanding the foregoing, in the event each of the foregoing conditions precedent have been satisfied or waived, except that Lessee has not obtained an interconnection agreement with the Interconnecting Utility, the Due Diligence Period with respect to the conditions precedent set forth in Section 3.2(c) only shall be automatically extended to the date that is thirty (30) days after Lessee obtains such interconnection agreement, but in no event shall the Due Diligence Period be extended beyond September 30, 2021. In the event that no Solar Program Contract is awarded in connection with the Solar Power Facility, Lessor shall have the right, in its sole but reasonable discretion, to terminate this Lease; provided, however, that Lessor shall forbear on such right to termination for a period of ninety (90) days (the "Review Period"), and Lessor shall work in good faith with Lessee during the Review Period to determine whether a mutually acceptable alternative to the Solar Program Contract is feasible.

LESSEE ACKNOWLEDGES AND AGREES THAT, FOLLOWING THE TERM NOTICE, IT HAS HAD OR WILL HAVE AN OPPORTUNITY TO INSPECT THE PROPERTY AND THE PREMISES AND THAT NOTWITHSTANDING ANY LATENT OR HIDDEN DEFECTS IT IS TAKING THE PROPERTY AND THE PREMISES "AS IS", WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED BY LESSOR, EXCEPT FOR LESSOR'S EXPRESS REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSLY SET FOR IN THIS LEASE, (I) LESSOR EXPRESSLY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS AS TO THE CONDITION OF THE PROPERTY, THE BUILDING, THE ROOFTOP, OR PREMISES (INCLUDING WITHOUT LIMITATION THAT THE PREMISES ARE SUITABLE FOR THE PERMITTED USE HEREUNDER OR FOR THE INSTALLATION OF THE SOLAR POWER FACILITIES OR AS TO THE CONDITION OF ANY ELECTRICAL OR TELEPHONE SERVICES SERVING THE PROPERTY OR THE BUILDING), AND (II) LESSEE ACKNOWLEDGES AND AGREES THAT, LESSOR HAS MADE NO REPRESENTATION OR WARRANTY AS TO THE CONDITION OF THE PREMISES OR PROPERTY AND THAT LESSEE IS SOLELY RELYING UPON ITS OWN INSPECTION OF THE PROPERTY AND PREMISES IN ENTERING INTO THIS LEASE.

3.3 Lessor Termination During the Due Diligence Period. Until the end of the Due Diligence Period, Lessor may terminate this Lease, in its sole and absolute discretion, after giving not less than thirty (30) days' notice to Lessee, if the system size of the Solar Power Facilities (the "System Size"), as approved by the Utility would result in annual Base Rent of less than Ninety Percent (90%) of the Base Rent specified in Article 4 per annum during the Term. In the event of termination by Lessor pursuant to this Section, Lessor shall be relieved of any further liability hereunder.

3.4 Building Lease Amendments. To the extent required under any lease or leases of tenants occupying the Building, Lessor shall amend the lease or leases to permit the installation of the Solar Power Facilities or obtain any required consent or approval of such tenants to permit access to the roof or other areas of the Property by Lessee (collectively, the "Building Lease Amendments") no later than the Award Date. If Lessor has not obtained such Building Lease Amendments or required consents or approvals of such tenants on or before the Award Date, then the Due Diligence Period shall be extended by one day for each day beyond the Award Date. If a Building

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Lease Amendment is required, the "Due Diligence Period" set forth in Section 3.2 shall be revised to commence upon the later of (x) Lessor's receipt of all such Building Lease Amendments, or (y) the Award Date. If both a Building Lease Amendment and a Mortgagee Approval is required, then the Due Diligence Period shall commence upon receipt of the latter of the Mortgagee Approval and all Building Lease Amendments.

ARTICLE 4
RENTS

4.1 **Base Rent**. In consideration of the mutual agreements, covenants, and other consideration set forth in this Lease, Lessee shall pay Lessor, as a base Rent ("Base Rent") during the Term, and as applicable, each Extension Term, the amount of One Hundred Thirty Nine Thousand Nine Hundred Fifty and 00/100 Dollars ($139,950.00) per year. Base Rent shall be payable by Lessee to Lessor commencing on the earlier to occur of (i) the first business day after the Commercial Operation Date of the Solar Power Facility or (ii) one hundred eighty (180) days following the expiration of the Due Diligence Period (the "Base Rent Commencement Date") and in equal monthly installments on the first day of each calendar month thereafter. Notwithstanding the foregoing, in the event that Lessee has completed Lessee's Work, but the Commercial Operation Date has not occurred solely due to the failure of any federal, state or local authorities to issue the Governmental Approvals or the failure of the Interconnecting Utility to complete its inspections of Lessee's Work (any such failure, a "Third Party Delay"), the Base Rent Commencement Date shall toll one day for each day of Third Party Delay; provided, however, that Lessee shall make commercially reasonable efforts to minimize any such Third Party Delay; provided further, that the Base Rent Commencement Date shall occur no more than two hundred ten (210) days following the expiration of the Due Diligence Period. For any partial month after the Commercial Operation Date, the Base Rent shall be prorated for the actual time within such calendar month that this Lease was in effect. Except as expressly set forth herein, Lessee shall have no right at any time to abate, reduce, or set-off any Base Rent due hereunder except as may be expressly provided in this Lease. All Base Rent and payments required to be paid by Lessee to Lessor shall be made by Lessee payable to the entity and sent to the address Lessor designates and shall be made by good and sufficient check payable in United States of America currency or by other means acceptable to Lessor or by Electronic Fund Transfer of immediately available federal funds. The obligation of Lessee to pay Base Rent and other sums to Lessor and the obligations of Lessor under this Lease are independent obligations. Any amount not paid when due shall, upon three (3) business days' prior written notice to Lessee, bear interest accruing from the date becoming past due until paid in full at rate equal to the greater of (i) one percent (1.00%) for each month (or ratable portion thereof) the same remaining unpaid, or (ii) three percent (3.00%) per annum (or ratable portion thereof) above the so-called prime rate of interest published in The Wall Street Journal from time to time on ninety (90) days loans to its most credit-worthy borrowers; provided that interest shall never exceed the maximum rate permitted under applicable law. If Lessee is delinquent in any payment of Base Rent, Lessee shall pay to Lessor, within five (5) business days of Lessee's receipt of a reasonably detailed written notice therefor, a late charge equal to one percent (1%) of such delinquent sum. The provision for such late charge shall be in addition to all of Lessor's other rights and remedies hereunder or at law and shall not be construed as a penalty. Notwithstanding the foregoing, Lessee shall not be obligated to pay a late charge for the first (1st) late payment during any calendar year during the Term.

4.2 **Real Estate and Personal Property Tax Agreement**. Lessee shall pay all ad valorem or other personal property taxes, or assessments levied or assessed against the Solar Power Facilities and any of Lessee's other personal property, including trade fixtures, located on the Premises, as required by applicable Laws or any tax agreement. If Lessor is assessed any taxes related to the existence of the Solar Power Facilities on the Property, Lessor shall immediately notify Lessee and provide Lessee with reasonable written evidence therefor. Lessor and Lessee shall, as applicable, reasonably cooperate in contesting any such assessment; provided, however, that Lessee and Lessor shall timely pay such taxes to avoid any penalties or interest on such taxes and, contemporaneous with such payment, provide evidence of payment thereof to the other Party. In the event Lessor or Lessee contests the assessment of such taxes upon the Solar Power Facilities and Lessor receives a tax refund as a result thereof, Lessor shall disburse the proceeds thereof, net of any taxes actually paid by Lessor with respect to the Solar Power Facilities and any reasonable, out-of-pocket costs and expenses actually incurred by Lessor in asserting such contest, to Lessee within ten (10) business days following receipt thereof by Lessor. It is the understanding of the Parties that the Solar Power Facility will be taxed independently of the Property and be billed directly to Lessee. Should Lessor be assessed any taxes due to the operation of the Lessee's Solar Power Facility on the Property, and that tax is not related to the revenue earned under this Lease, or the value of this Lease in general, then Lessee shall cooperate with

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Lessor to contest the assessment and provide any support necessary for Lessor to do so. Lessor shall not be liable for any property taxes imposed on the Premises or the Solar Power Facilities.

ARTICLE 5
APPROVALS

After the Execution Date, Lessee shall undertake to secure all material permits, Leases, certificates, authorizations and other approvals (collectively the "Governmental Approvals") that may be required by any federal, state, or local authorities, for the use of the Premises by Lessee for the Operations. Lessor shall have the right to review Lessee's plans and specifications prior to Lessee submitting its applications for Governmental Approvals. Lessor shall have the right to review and approve all of Lessee's system design specifications and location including type of racking system to be used. For the avoidance of doubt, Lessor's right of approval over system design specifications and location shall not extend to the type of equipment used, except as to the type of racking system as set forth above, the manner in which the system will be attached to the Premises, the structural load of the system and any other factors which may affect the roof, the Building Structure, and use and enjoyment of the Building by Lessor and the other Lessees at the Building, which approval shall not be unreasonably withheld. Lessor shall reasonably cooperate with Lessee, at no cost to Lessor, in Lessee's effort to obtain such Governmental Approvals and shall take no action which would adversely affect the status of the Property with respect to the Operations by Lessee. Notwithstanding anything herein to the contrary, Lessee shall be the "Applicant" in connection with any application for an award under New Jersey's Clean Energy Program - Community Solar Energy Pilot Program; provided, however, that in the event that no Solar Program Contract is awarded to Lessee, and the Lease is terminated pursuant to the terms and conditions hereof, then Lessee hereby covenants and agrees to take all commercially reasonable actions to cooperate with Lessor, in a manner reasonably acceptable to Lessor, in the assignment and transfer to Lessor or another solar developer/lessee other than Lessee of all materials and documents related to or in connection with the Solar Power Facility, following such Lease termination. The obligation of Lessee to perform all such post-termination obligations described in this Article 5, and the provisions of this Article 5 shall survive the termination of the Lease.

ARTICLE 6
MAINTENANCE AND REPAIR

6.1 Lessee's Obligations During Construction.

(a) Lessee or its contractor shall, at Lessee's sole expense, use commercially reasonable means to construct the Solar Power Facility in a good, workmanlike and timely manner and fully in accordance with Prudent Industry Standards. "Prudent Industry Standards" means the practices, methods and acts engaged in or approved by a significant portion of the solar energy industry that, at a particular time, in the exercise of reasonable judgment in light of the facts which were known or which reasonably should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy and expedition. Lessee shall carry, or cause its contractor to carry, insurance meeting the standards set forth in Article 9 below during the period of construction and installation of the Solar Power Facility. Lessee warrants that all of its contractors constructing and/or installing the Solar Power Facility will be adequately qualified and experienced to complete the Solar Power Facility as contemplated by this Section 6.1. Lessor acknowledges that Lessee will be performing the initial physical construction and actual installation of the Solar Power Facilities (the "Lessee's Work"). The actual commencement of construction on the Premises following mobilization shall constitute the commencement of Lessee's Work. Lessee's Work shall be conducted under the supervision of an engineering, procurement and constructing firm ("EPC Contractor") selected by Lessee, in Lessee's sole and absolute discretion, prior to commencing Lessee's Work. Lessee shall deliver to Lessor the name and address of Lessee's EPC Contractor and any other pertinent information about Lessee's EPC Contractor reasonably requested by Lessor in writing. Notwithstanding anything to the contrary contained herein, during the performance of Lessee's Work, which shall occur prior to the Commercial Operation Date, Lessee and its agents, employees and contractors shall have the right to access and use the Premises in accordance with the provisions of this Lease to the extent reasonably necessary to perform the Lessee's Work in accordance with the plan attached hereto as **Exhibit F.** During the construction and installation of the Solar Power Facilities, Lessee shall have the right to permit its construction lender, any Financing Parties and any of their representatives to access the Premises

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to perform any inspections contemplated under Lessee's financing agreements with Lessee's Financing Parties or their agents. Except as expressly set forth herein, any lender's or Financing Party's rights of access shall in no way exceed the access rights of Lessee as provided in this Lease. Lessee's Work shall conform to all requirements as described in **Exhibit F.** Any change related to the Lessee's Work involving modification to the design and/or layout of the system and racking system shall require Lessor's prior written approval, which consent shall not be unreasonably withheld, conditioned or delayed. Upon ten (10) business days' prior written notice to Lessee, Lessor may revoke its consent if there has occurred and is continuing any Event of Default by Lessee under this Lease (beyond all applicable notice and cure periods).

(b) Construction Liens. The Property (including, without limitation, the Premises) shall at all times be free of liens for labor and materials supplied in connection with Lessee's Work or any other work which may be performed by or for the benefit of Lessee. If at any time the Property or any portion thereof shall be encumbered by any construction or other liens, charges or claims for the payment of money or otherwise, or any violations or other encumbrances of record directly related to Lessee's Work or any other matter pertaining to Lessee at the Premises, then Lessee shall, within ten (10) business days after receipt of written notice of same or written request by Lessor, prove to the reasonable satisfaction of Lessor that every such monetary lien has been fully paid, provided for, discharged or bonded. Without limiting Lessee's liability for failure to comply with this paragraph, if Lessor bonds or discharges any construction or other lien upon Lessee's failure to do so, then, in addition to the cost of such bonding or discharging and all other costs and disbursements which Lessee would owe to Lessor in respect of same hereunder, Lessee shall also pay to Lessor Lessor's out-of-pocket reasonable outside legal fees incurred by Lessor in discharging or bonding over such lien. Lessee, at its sole cost and expense, shall procure and deliver to Lessor a final release of lien following completion of construction of the Solar Power Facilities from the EPC Contractor and any subcontractors who constructed the Solar Power Facilities in connection with the performance of the Lessee's Work. Notwithstanding anything to the contrary contained in this Section 6.1, nothing herein shall be deemed to prohibit Lessee from financing the Solar Power Facility in accordance with the provisions of this Lease.

6.2 Lessee's General Obligations. Lessee shall, at Lessee's sole expense, operate and maintain the Solar Power Facilities in good order, condition and repair, including the ongoing costs of capital repairs and replacements, subject to Lessee's commercially reasonable direction. Lessee shall also pay for Lessee's share of energy costs required for operating the Solar Power Facility.

6.3 Maintenance of the Premises; Compatibility with Operations; Restrictions on Lessee's Use. Lessee shall be responsible for all repairs and alterations in and to the Solar Power Facility and Premises, the need for which arises out of (i) Lessee's use or occupancy of the Premises, (ii) the installation, removal, use or operation of the Solar Power Facility (unless caused by the negligence or wrongful action or inaction of Lessor and/or any third party under Lessor's control or at Lessor's direction), (iii) the moving of equipment into or out of the Premises, or (iv) the act, omission, misuse or negligence of Lessee, its agents, contractors, employees or invitees and the portions of the Premises occupied by the Solar Power Facility. With respect to any alterations or maintenance work made by or on behalf of Lease: (a) not less than 10 days prior to commencing any alteration or maintenance or repair work, Lessee shall deliver to Lessor the plans, specifications and necessary permits for the alteration or maintenance or repair work, which plans, specifications and necessary permits shall be subject to Lessor's review and approval, together with certificates evidencing that Lessee's contractors and subcontractors have insurance coverage to Lessor's reasonable satisfaction; (b) Lessee shall obtain Lessor's prior written approval of any contractor or subcontractor; (c) the alteration or maintenance or repair work shall be constructed with new materials, in a good and workmanlike manner, and in compliance with all applicable Laws and the plans and specifications delivered to and approved by Lessor; (d) Lessee shall pay Lessor all reasonable costs and expenses in connection with Lessor's review of Lessee's plans and specifications, and of any supervision or inspection of the construction Lessor deems necessary; and (e) upon Lessor's request Lessee shall, prior to commencing any alteration or maintenance or repair work, provide Lessor reasonable security against liens arising out of such construction. Lessee shall, at Lessee's sole cost and expense, keep the Solar Power Facilities in good order, repair and condition throughout the Term, and promptly and adequately repair all damage to the Premises, Property and Building caused by Lessee, or any of Lessee's employees, agents, or contractors, other than ordinary wear and tear. If Lessee fails to commence such replacement or repairs within twenty (20) days of receipt of written notice from Lessor, Lessor may, upon three (3) days prior written notice to Lessee, make such repairs and Lessee must reimburse Lessor within thirty (30) days of receiving an invoice (along with reasonable written evidence therefor) for Lessor's reasonable, actual, out-of-pocket expenses in performing such work, except in the event of an Emergency in which case Lessor shall have the right to

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complete such repairs necessary to remove such Emergency situation without notice to Lessee; provided that Lessor shall notify Lessee of such Emergency immediately upon receipt of notice thereof. An "Emergency" shall mean an event threatening immediate and material danger to people located in the Building or immediate, material damage to the Building, the Building's systems or Building Structure or the Solar Power Facilities. Lessee shall not do anything to cause any violation or disqualification of the roof warranty.

Lessee shall use commercially reasonable efforts to ensure the Solar Power Facilities shall not unreasonably interfere with the operation of the Building, including, without limitation, window washing equipment, chiller units, cooling towers, the emergency generator, elevators, machine rooms, lightning protection systems, roof top antenna(s), ventilation shafts, if any, or any other parts of the Building. Nothing in the foregoing sentence shall be deemed to hinder or prohibit Lessee from exercising its right to construct, maintain and operate the Solar Power Facility at the Premises.

Without Lessor's prior written consent (not to be unreasonably withheld, conditioned or delayed), Lessee will not store, place or otherwise locate on the Premises or rooftop of the Building any item or equipment which would place undue pressure on the Rooftop and/or cause damage to the Property, Building or the roof membrane. Except as expressly provided otherwise in this Lease, or upon Lessee's receipt of Lessor's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed), Lessee shall not store any materials or equipment in the Common Areas or other areas of the Building or Property. Lessee shall promptly remove from the Premises, at Lessee's sole cost and expense, any garbage, waste, and construction debris that might at any time be generated by Lessee, or its employees, agents, contractors or assigns. Notwithstanding anything to the contrary contained herein, including this Section 6.3, so long as no Event of Default on the part of Lessee has occurred and is ongoing beyond all applicable notice and cure periods, Lessee shall have the right to construct, maintain and operate the Solar Power Facility and in no event shall the first sentence of this Section 6.3 be construed as restricting Lessee's rights to construct, maintain or operate the Solar Power Facility in accordance with this Lease.

6.4 Lessor's General Obligations. Lessor shall repair and maintain, in good repair and in conformity with applicable Laws (except for any compliance issues attributable to Lessee's use of the Premises) the Property and such portions of the Premises not occupied by the Solar Power Facility. Lessor, to the extent that Lessor has control over same, shall maintain in good working order and available at all times, its connection and service contract(s) with the Utility.

In the event any maintenance and/or repair to the structural portions of the Building, including the foundation, roof structure (in each case, excluding the Solar Power Facilities), and all Common Areas (collectively, "Building Structure"), and associated roof membrane, or Building is required due to the existence of the Solar Power Facilities and related equipment connected thereto on the Premises, or results from Lessee's access and/or use of the Premises or the Building, Lessee shall bear the sole cost and expense actually incurred by Lessor in performing repairs and/or maintenance in connection therewith. For the avoidance of doubt, Lessee's liability for any repair to the Building Structure, associated roof membrane, or Building will not include ordinary wear and tear and any claim for payment must be accompanied by proof that the operation of the Solar Power Facilities and/or access to or from them resulted in actual harm. Lessor and Lessee shall hire a mutually agreed to third party roofing consultant to verify whether any such repairs are required as a result of the Solar Power Facilities, and if so, then Lessee shall be responsible for such increased costs. For purposes of this Lease, ordinary wear and tear shall mean wear and tear which would exist if Lessee had not constructed, installed, operated, or repaired the Solar Power Facilities). Lessee shall pay such cost no later than thirty (30) days following Lessee's receipt of invoice for such maintenance and repairs (which invoice shall be accompanied by reasonable back-up documents evidencing the costs incurred by Lessor).

Section 6.4A. Roof Repair. In the event that Lessor determines, in its commercially reasonable discretion, that all or any portion of the roof requires repair (a "Roof Repair") which, for the purpose of clarity, does not include a planned Roof Replacement (as defined in Section 6.4B below) or a Casualty or a Taking (which shall be governed by Section 11 below), and if such Roof Repair requires the partial or complete disassembly or movement of the Solar Power Facilities (a "Repair Removal and Reinstallation"), Lessee shall diligently and promptly cooperate with Lessor in connection with such Repair Removal and Reinstallation. The following provisions allocate between Lessor and Lessee the financial burden of removal, storage and reinstallation of the Solar Power Facilities associated with the Roof Repair.

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(a) Lessee shall commence a Repair Removal and Reinstallation within thirty (30) business days of Lessor's request if commercially feasible; provided, that Lessor will use commercially reasonable efforts to provide Lessee sixty (60) days prior written notice of any Repair Removal and Reinstallation.

(b) Lessor shall use its commercially reasonable efforts to not require Lessee to remove more than 20% of the Solar Power Facilities at a single time, and Roof Repairs that affect more than 20% of the Solar Power Facilities shall be completed in a phased manner so that at no one time shall more than 20% of the Solar Power Facilities be removed if practicable in Lessor's discretion; and provided further, that Lessor shall use commercially reasonable efforts to not require removal during High Insolation Periods (as defined below), and shall work in good faith with Lessee to minimize the disruption to the Solar Power Facilities attributable to any Roof Repairs.

(c) Except as otherwise provided herein, Lessor shall bear all costs associated with the Roof Repair.

(d) Except as otherwise provided herein, Lessor shall bear all costs associated with the Repair Removal and Reinstallation, except that Lessor shall not be responsible for any costs for damage caused by Lessee or its parties or any such costs in the event of a Casualty.

(e) Except as otherwise provided herein, Lessor shall pay Lessee for any Lost Energy Revenue (as defined hereinafter); provided, however, that Lessor shall not be responsible for any cost or expense arising out of (i) the negligent installation, maintenance or repair of or to the Solar Power Facilities, and (ii) a Casualty impacting all or any portion of the Solar Power Facilities; provided further, however, that in each calendar year of the Term following the Commercial Operation Date, for the first five (5) days that all or a portion of the Solar Power Facilities is out of operation as a result of a Roof Repair (the "Repair Time"), no Lost Energy Revenue shall be due. By way of example, in the event that the Maximum Lessor Exposure is $100,000, and the Solar Power Facilities are offline for fifteen (15) days, the Lost Energy Revenue would be calculated as follows: Fifteen (15) days, minus the five (5) day grace period, which would be ten (10) days; then, ten (10) days would be divided by 365, and that quotient would be multiplied by $100,000, to result in $2,739. In the event that only a part of the Solar Power Facilities is offline, i.e., ten percent (10%), then the daily cost of Lost Energy Revenue would be $274.

The portion of Lost Energy Revenue attributable to tax credits shall only be available until the fifth anniversary of the Commercial Operation Date and shall be calculated as the value of any tax credits that otherwise would have been receivable by Lessee (or Lessee's direct or indirect owners) during the period in which the Solar Power Facilities are offline and/or any tax credits previously claimed by Lessee (or Lessee's direct or indirect owners) that are subject to recapture, and provided that Lessee verifies an actual claim for recapture damages, as a result of the Solar Power Facilities being offline (including any fees and penalties associated with such recapture). As set forth on **Exhibit G**, the portion of Maximum Lessor Exposure attributable to the Tax Credit Recapture Fee shall decrease by twenty percent (20%) at the end of each anniversary of the Commercial Operation Date until the fifth anniversary, after which no Tax Credit Recapture Fee shall be available. Lessee shall, in making any demand for a Tax Credit Recapture Fee, provide Lessor with documentation from a reputable accounting firm or other source acceptable to Lessor to verify Lessee (or Lessee's direct or indirect owners) actual claim for recapture damages. "Tax Credits" shall mean the Business Energy Investment Tax Credit as amended by the Consolidated Appropriations Act of 2015.

(i) "High Insolation Periods" means the hours from 5:30AM Eastern Daylight Time to 6PM Eastern Daylight Time on any days within the period commencing May 1st of each calendar year and ending September 30th of any such calendar year.

(ii) "Lost Energy Revenue" means the sum of the (i) revenue Lessee would have received from the sale of the Solar Power Facilities' electrical generation under the applicable power purchase agreement with the Utility or any other party under the applicable solar program (the "Power Purchase Agreement") but for the disruption in the Solar Power Facilities' operation solely caused by the Repair, Removal and Reinstallation, Roof Replacement and any other action of Lessor or Lessor's employees, Affiliates, agents, or subcontractors (collectively, a "Lessor Act"), (ii) revenue Lessee would have received from rebate, assistance or other incentive programs related to operating the Solar Power Facilities but for the disruption in the Solar Power Facilities' operation solely caused by a Lessor Act, (iii) tax credits that otherwise would have been receivable by Lessee or its direct or indirect owners but for the disruption in the

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Solar Power Facilities' operation and/or any tax credits already claimed but are subject to recapture (including any fees and penalties associated with such recapture), solely caused by a Lessor Act, and (iv) any amount owed by Lessee to the Power Purchase Agreement counterparty due to Lessee's failure to produce the minimum output of energy required by the Power Purchase Agreement solely caused by a Lessor Act. For the avoidance of doubt, the amount owed due to failure to meet the Power Purchase Agreement minimum output will be demonstrated through evidence of production and Lessor's liability for payment will extend only to those shortfalls in production related directly to the reduction in output caused by the action or inaction of any Party other than Lessee or a party acting on Lessee's behalf. Lessee shall be entitled to Lost Energy Revenue only upon providing to Lessor reasonably detailed written documentation evidencing that actual Lost Energy Revenue, including full explanation of the metrics and calculations supporting any claimed Lost Energy Revenue sums. Lessee must claim and provide requisite documentation to Lessor no later than ninety (90) days after an occurrence of Lost Energy Revenue, or the date on which the Lost Energy Revenue amount becomes fixed, except in the case of lost incentives, rebates or tax credits, where Lessee must claim and provide requisite documentation to Lessor no later than ninety (90) days after the receipt by Lessee of written notice from any governmental authority or independent auditor indicating that Lessee or its owners are ineligible for such incentive, rebate or tax credit or such items are or will be subject to recapture. In no event shall Lessor's maximum exposure for Lost Energy Revenue as a whole be greater than the maximum exposure to Lessor (the "Maximum Lessor Exposure") set forth on **Exhibit G** attached hereto.

For the purpose of calculating the payments for Lost Energy Revenue, Lost Energy Revenue shall be deemed to have been produced at the same applicable pro rata rate based on the monthly estimate of energy production with respect to the Solar Power Facilities (as reasonably determined by Lessee and as shall be provided to Lessee upon Lessor's request) based on the total energy production of such month of operation as estimated in the attached **Exhibit H,** discounted by 0.5% per year throughout the Term.

(f) Except as set forth herein, a Roof Repair event and Repair Removal and Reinstallation shall not impact Lessee's obligations associated with the payment of the Base Rent together with any other costs due and payable to Lessor under this Agreement.

Section 6.4B. Planned Roof Replacement. Lessor shall have the one-time right to require that all or any portion of the Solar Power Facilities located on the portion of the Premises depicted on **Exhibit B** as Area 2a and Area 2b, be disassembled or moved to replace all or any portion of the roof of the Building at any one time during the Term of this Agreement (the "Roof Replacement"). The following provisions allocate between Lessor and Lessee the financial burden of Repair Removal and Reinstallation of the Solar Power Facilities associated with the Roof Replacement.

(a) Prior to performing the Roof Replacement, Lessor shall provide Lessee with a written report from a roofing contractor reasonably acceptable to Lessee indicating the nature and scope of such planned Roof Replacement. In the event that Lessor elects to undertake the Roof Replacement subject to the terms hereof, Lessor shall provide Lessee with at least ninety (90) days prior written notice (the "Roof Replacement Notice"), which Roof Replacement Notice shall specify the date upon which Lessor will commence the Roof Replacement work (the "Roof Replacement Work"), which date shall not be sooner than ninety (90) days from the date of such Roof Replacement Notice.

(b) Lessor shall use its commercially reasonable efforts to not require Lessee to remove more than 50% of the Solar Power Facilities at a single time, and a Roof Replacement that affects more than 50% of the Solar Power Facilities shall be completed in a phased manner so that at no one time shall more than 50% of the Solar Power Facilities be removed if practicable in Lessor's discretion, and Lessee shall use commercially reasonable efforts to minimize any delay in coordinating with Lessor and its contractors for such phased removal of any portion of the Solar Power Facilities; and provided further, that Lessor shall use commercially reasonable efforts to not require removal during High Insolation Periods, and shall work in good faith with Lessee to minimize the disruption to the Solar Power Facilities attributable to a Roof Replacement.

(c) Except as otherwise set forth herein, Lessor shall bear all costs associated with the Roof Replacement, and Lessor shall use commercially reasonable efforts to complete the Roof Replacement Work within

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one (1) month following the commencement of such Roof Replacement Work, subject to delays caused by Lessee and events of Force Majeure (the date upon which Lessor is required to complete the Roof Replacement Work pursuant to the terms hereof shall be referred to herein, as the "Outside Roof Replacement Completion Date").

(d) Lessee shall bear all costs and expenses in connection with the Repair Removal and Reinstallation of any portion of the Solar Power Facilities required to be disassembled or moved and reinstalled in connection with the Roof Replacement performed by Lessor as permitted hereunder.

(e) Lessee shall not be entitled to Lost Energy Revenue during the period of time following the commencement of removal of the Solar Power Facilities in connection with such Roof Replacement Work set forth in Section 6.4B(c) of this Agreement. If Roof Replacement Work is continuing on or after the Outside Roof Replacement Completion Date, Lessee shall be entitled to Lost Energy Revenue calculated in accordance with Section 6.4A(f) of this Agreement.

(f) A Roof Replacement and Repair Removal and Reinstallation shall not impact Lessee's obligations associated with the payment of the Base Rent together with any other costs due and payable to Lessor under this Agreement.

Section 6.4C Unplanned Roof Replacement. Lessor may, in its reasonable discretion determine that the complete disassembly or movement of the Solar Power Facilities is required to replace all or any portion of the roof of the Building during the Term of this Agreement (the "Unplanned Roof Replacement") which, for purposes of clarity, does not include a planned Roof Replacement or a Casualty or a Taking. The following provisions allocate between Lessor and Lessee the financial burden of the Repair Removal and Reinstallation of the Solar Power Facilities associated with the Unplanned Roof Replacement.

(a) Prior to performing the Unplanned Roof Replacement, Lessor shall provide Lessee with a written report from a roofing contractor reasonably acceptable to Lessee indicating the nature and scope of such Unplanned Roof Replacement. In the event that Lessor elects to undertake the Unplanned Roof Replacement subject to the terms hereof, Lessor shall provide Lessee with at least ninety (90) days prior written notice (the "Unplanned Roof Replacement Notice"), which Roof Replacement Notice shall specify the date upon which Lessor will commence the Roof Replacement work (the "Unplanned Roof Replacement Work").

(b) Lessor shall use its commercially reasonable efforts to not require Lessee to remove more than 50% of the Solar Power Facilities at a single time, and a Unplanned Roof Replacement that affects more than 50% of the Solar Power Facilities shall be completed in a phased manner so that at no one time shall more than 50% of the Solar Power Facilities be removed if practicable in Lessor's discretion; and provided further, that Lessor shall use commercially reasonable efforts to not require removal during High Insolation Periods, and shall work in good faith with Lessee to minimize the disruption to the Solar Power Facilities attributable to an Unplanned Roof Replacement.

(c) Lessor shall bear all costs associated with the Unplanned Roof Replacement, and Lessor shall use commercially reasonable efforts to complete the Unplanned Roof Replacement Work within one (1) month following the commencement of such Unplanned Roof Replacement Work, subject to delays caused by Lessee and events of Force Majeure (the date upon which Lessor is required to complete the Unplanned Roof Replacement Work pursuant to the terms hereof shall be referred to herein, as the "Outside Roof Replacement Completion Date").

(d) Lessor shall bear all costs and expenses in connection with the Repair Removal and Reinstallation of any portion of the Solar Power Facilities required to be disassembled or moved in connection with the Unplanned Roof Replacement performed by Lessor as permitted hereunder. Prior to, or in connection with the Repair Removal and Reinstallation, Lessor may, in its sole discretion, elect to not reinstall the Solar Power Facilities and effect the termination of this Agreement, without penalty and in accordance with the terms of this Agreement.

(e) Lessee shall be entitled to Lost Energy Revenue calculated in accordance with Section 6.4A(e) of this Agreement.

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(f) An Unplanned Roof Replacement and Repair Removal and Reinstallation shall not impact Lessee's obligations associated with the payment of the Base Rent together with any other costs due and payable to Lessor under this Agreement.

6.5 **Health and Safety**. Lessor and Lessee shall comply with all applicable Laws pertaining to the safety of persons and real and personal property and shall take all necessary and reasonable safety precautions in performing its respective obligations under this Agreement. Lessor and Lessee shall immediately report to each other any death, loss time, injury, or damage to the other's property that occurs within the Premises.

6.6 **Payment and Performance, and Decommissioning Bonds**. Lessee agrees to provide two bond (the "Bonds") as security for the performance of Lessee's obligations under this Agreement including, without limitation, the following: (i) payment to discharge any liens that may encumber the Property growing out of or connected with Lessee's Work or any other matter pertaining to Lessee, including without limitation if Lessor bonds or discharges any mechanic's or other lien upon Lessee's failure to do so, then, in addition to the cost of such bonding or discharging and all other costs and disbursements which Lessee would owe to Lessor in respect of same, Lessee shall also pay to Lessor, Lessor's reasonable legal fees incurred in connection therewith; (ii) as security for Lessee's payment of the Base Rent and any other costs due and payable to Lessor; and (iii) payment of the costs to remove the Solar Facilities from the Premises.

(a) There shall be two bonds issued in an aggregate amount of $0.20 per watt dc of installed capacity at the Solar Power Facility with a surety reasonably acceptable to Lessor. The surety shall be licensed to do business in the state in which the Property is located and shall have an AM Best's rating of A- VIII or better. The Bonds shall allow for Lessor to draw on the Bonds without any action by Lessee at any time payment is due and payable to Lessor under this Agreement, or as for the Decommissioning Bond, as of the date a decommissioning event occurs, if Lessor delivers a draw request to the surety; provided, that, Lessee is in default of its payment obligations at the time Lessor delivers the draw request. The Bonds shall be renewed annually through the end of the Term and supplemented promptly by Lessee in the event that the Bonds are drawn upon according to this Section 6.6. In the event that Lessee fails to replenish the Bonds within ten (10) days following any draw by Lessor, Lessee shall be in default of this Agreement. If Lessor sells or conveys the Property, Lessee shall, at Lessor's request, cooperate in having the Bonds issued to the purchaser of the Property and Lessor agrees to notify Lessee in the event of such transfer.

i. The first bond (the "Payment and Performance Bond") shall cover the following: (i) payment to discharge any liens that may encumber the Property growing out of or connected with Lessee's Work or any other matter pertaining to Lessee, including without limitation if Lessor bonds or discharges any mechanic's or other lien upon Lessee's failure to do so, then, in addition to the cost of such bonding or discharging and all other costs and disbursements which Lessee would owe to Lessor in respect of same, Lessee shall also pay to Lessor, Lessor's reasonable legal fees incurred in connection therewith; and, (ii) serve as security for Lessee's payment of the Base Rent and any other costs due and payable to Lessor. The Payment and Performance Bond shall be in place as of the Commercial Operation Date and have a beginning value of $0.10 per watt dc of installed capacity at the Solar Power Facility. At no time shall Lessee be required to provide a Payment and Performance Bond for an amount larger than $0.10 per watt dc of installed capacity at the Solar Power Facility.

ii. The second bond (the "Decommissioning Bond") shall cover payment of the costs to remove the Solar Facility from the Premises. The final value of the Decommissioning Bond shall be $0.10 per watt dc of installed capacity of the Solar Power Facility and shall be funded in full at NTP. At no time shall Lessee be required to provide a Decommissioning Bond for an amount larger than $0.10 per watt dc of installed capacity at the Solar Power Facilities. If Lessee fails to timely perform its removal obligations expressly set forth in Article 7, then following the expiration of the notice and cure period set forth in Article 19, Lessor shall be entitled to utilize the Decommissioning Bond to perform such removal of the Solar Power Facilities. After such removal by Lessor, any excess amounts from the Decommissioning Bond shall be promptly returned to Lessee.

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6.7 **Building Lease Interactions**. Lessee understands that there exists (or may in the future exist) a lease or leases for Lessees occupying the Building (the "Building Leases"). In the event of a dispute or disagreement between any Lessee or occupant under any of the Building Leases and Lessee, Lessee shall promptly notify Lessor, and Lessee hereby grants to Lessor the right to exclusively control the dialogue and any resolution to such dispute or disagreement, but at no cost to Lessor. In no event may Lessee take any action that would be deemed an event of default by Lessor under any Building Lease. In the event that Lessee takes such an action, Lessor shall have the right to cure such default and obtain reimbursement from Lessee for the costs incurred related thereto. In the event of any conflict between this Lease and any Building Lease, the terms of the Building Lease shall govern and control.

6.8 **System Relocation**. If, for reasons other than Lessor's breach of its obligations hereunder, Lessor ceases to have access rights to the Premises as necessary to permit Lessee to operate the Solar Power Facilities prior to the expiration of the Term or any Extension Term, or otherwise needs to remove the Solar Power Facilities from the Premises, then Lessor shall either (i) provide Lessee with a mutually agreeable substitute premises in a location that meets the standards of Section 6.8(a), or (ii) terminate this Lease and pay the Termination Fee in the amount listed for the corresponding year of the Lease on **Exhibit E**.

a. Any substitute Premises must (i) provide the same level of insolation as the original Premises under this Lease; (ii) be located in the same state as the original Premises; (iii) be served by the same utility; and, (iv) be capable of supporting the same size Solar Power Facility as was originally in operation on the original Premises.
b. Lessor shall provide at least one hundred and eighty (180) days' written notice prior to the date on which it desires to effect such substitution of premises. Lessor and Lessee shall amend this Lease to specify the substitute Premises.
c. Lessor shall provide any new owner, lessor, or mortgagee consents or releases required by Lessor's Financing Party in connection with the substitute Premises. If Lessor is unable to obtain such consents and releases for a substitute Premises, the substitution shall not be allowed and Lessor shall terminate this Lease and pay the Termination Fee in the amount listed for the corresponding year of the Lease on **Exhibit E**.
d. Lessor shall pay all costs associated with relocation of the Solar Power Facility including all costs and expenses incurred by or on behalf of Lessee in connection with removal of the Solar Power Facility from the original Premises, and repair or maintenance of the Premises where repair or maintenance is required due to Lessor's decision to relocate the Solar Power Facility, provided that (i) if Lessor is responsible for the contract for moving the equipment then Lessor will be responsible for all costs for any damages caused during the moving process, and (ii) if Lessee is responsible for the contract for moving the equipment then Lessor will be responsible for the first $25,000.00 in such costs, after determining the costs are not collectible from the contractor, and installation and testing of the Solar Power Facility at such substitute Premises and all applicable interconnection fees and expenses at the substitute Premises, as well as costs of new title search and other reasonable actual out of pocket expenses incurred as a direct result of preserving and refiling, as applicable, the security interest of Lessee's Financing Party in the Solar Power Facility.
e. Lessee shall make commercially reasonable efforts to remove all of its tangible property comprising the Solar Power Facility from the original Premises prior to any termination of Lessor's right to use such Premises. Upon removal of the tangible property comprising the Solar Power Facility from the original Premises, the original Premises shall be returned to its original condition, except for incidental hardware or other support structures and ordinary wear and tear.
f. In connection with any substitution of Premises, Lessor shall be responsible for the payment of all Lost Energy Revenue during any transfer or construction time period to the extent that the Solar Power Facilities are offline due to the relocation (the "Transfer Time").

ARTICLE 7
SURRENDER OF PREMISES; REMOVAL OF EQUIPMENT

At the end of the Term or upon termination of this Lease, Lessee shall surrender the Premises and remove the Solar Power Facilities at its sole cost and expense (other than if such termination and removal is as a result of default by Lessor) within one hundred twenty (120) days after the end of Term, and shall return the Premises to its original condition, ordinary wear and tear excepted. In the event that Lessee fails to remove the Solar Power Facilities

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within such time period, Lessee shall pay for the costs Lessor incurs to remove such Solar Power Facilities within thirty (30) days of receipt of an invoice therefor, and, at Lessor's option, the Solar Power Facilities shall be deemed abandoned and title thereto shall pass to Lessor without the necessity for any bill of sale.

ARTICLE 8
QUIET ENJOYMENT

Lessor covenants that, so long as Lessee performs its agreements hereunder, Lessee shall have the right to quietly enjoy and use the Premises and Lessee's easement and Lease rights granted in this Lease throughout the Term, subject to the provisions hereof. Lessor represents and warrants to, and covenants with, Lessee that: (a) Lessor owns title to the Premises and that the Premises shall be free from any and all liens, claims, and encumbrances that materially and adversely interfere with Lessee's intended use and enjoyment of the Premises or Lessee's other rights hereunder; (b) Lessor shall pay all sums due under all mortgages encumbering the Premises other than any mortgage of Lessee's Financing Parties; and (c) Lessor has the power and authority to execute and deliver this Lease and to perform all covenants to be performed by Lessor hereunder.

ARTICLE 9
INSURANCE

9.1 **Insurance Requirements; Waiver of Subrogation.** Lessee shall maintain, during the Term, the insurance coverages set forth on the attached **Exhibit D**. Each Party waives, and shall cause its insurance carrier to waive, any right of recovery against the other for any loss of or damage to property which loss or damage is (or, if the insurance required hereunder had been carried, would have been) covered by insurance. For purposes of this Section 9.1, any deductible with respect to a Party's insurance shall be deemed covered by, and recoverable by such Party under, valid and collectable policies of insurance.

ARTICLE 10
INDEMNIFICATION

10.1 **Indemnification**. Subject to Article 10.2 below, each Party (each, an "Indemnifying Party") shall indemnify the other Party, its employees, directors, officers, managers, members, shareholders, subsidiaries and agents (each, an "Indemnified Party") against all liabilities, losses, lawsuits, penalties, claims, settlement payments, costs and expenses, interest, awards, judgments, damages, fines or demands (including the Attorneys' Fees on account thereof) which may be imposed upon, incurred by or asserted against the Indemnified Party at any time prior to, during or after the Term by any third party and arising out of or related to the Indemnifying Party's (a) material breach of any covenant, obligation, representation, or warranty set forth in this Lease and/or (b) gross negligence or willful misconduct, except to the extent caused by the Indemnified Party's negligence or willful misconduct. An Indemnified Party shall notify the Indemnifying Party promptly of any written claims or demands against the Indemnified Party from a third party for which the Indemnifying Party is responsible hereunder. The foregoing indemnity shall be in addition to and not in lieu of any other indemnity obligations provided by Law. The indemnity provided in this Section 10 also shall apply to the successors and permitted assigns of the Indemnified Party. Lessee agrees and acknowledges that it shall use the Premises at its sole risk, and, except for the negligence or willful misconduct of Lessor and the Lessor Parties, Lessee absolves and fully releases Lessor and the Lessor Parties from any and all third-party claims. This Section 10 shall survive the termination of this Lease.

10.2 **Limitation on Liability**. Except as otherwise provided in this Lease, neither Party shall be liable for any special, incidental, consequential or punitive damages based on breach of contract, breach of warranty, negligence, tort or any other legal theory. Lessee, as a material part of the consideration to Lessor, hereby assumes all loss due to business interruption and all risk of illness or injury to persons in, upon or about the Premises, the Property and/or the Building arising from any cause and all risk of damage to property including, but not limited to, the Solar Power Facilities, and all alterations, and Lessee hereby expressly releases Lessor and any Lessor related Indemnified Party and waives all claims in respect thereof against Lessor and any Lessor related Indemnified Party except to the extent expressly provided in this Lease.

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ARTICLE 11
CASUALTY AND CONDEMNATION

11.1 Casualty. In the event the Solar Power Facility shall be damaged or destroyed a Casualty, Lessee shall, within sixty (60) days of the date of such damage, commence to repair or reconstruct the Solar Power Facility and diligently prosecute such repairs or reconstructions to completion. In case any damage or destruction occurs during the last six (6) months of the initial term or during the last six (6) months of any Extension Term or if the damage is to the extent of fifty percent (50%) or more of the insurable assets, Lessee, at its option to be evidenced by notice in writing given to Lessor within thirty (30) days after the occurrence of such damage or destruction, may elect to terminate this Lease as of the date of said damage or destruction; however, if Lessee elects to terminate, then Lessee shall remove all debris and restore the Premises to the condition to which it existed prior to the commencement of the Lease, normal wear and tear excepted. In addition, if at any time during the Term all or a portion of the Premises are damaged by a Casualty, then Lessee shall promptly notify Lessor. Within sixty (60) days after Lessor becomes aware of such damage, Lessor shall notify Lessee as to the amount of time Lessor reasonably estimates it will take to restore the Premises (but not the Solar Power Facility), except for modifications required by applicable Laws, and excluding the repair, restoration or replacement of the Solar Power Facility. If the restoration time is estimated to exceed nine (9) months from the issuance of all permits, then either Lessor or Lessee (unless the damage was caused by Lessee) may elect to terminate this Lease effective as of the date of Casualty by giving notice to the other within fifteen (15) days after Lessor's notice. In addition, Lessor, by notice to Lessee within ninety (90) days after the date of the Casualty, shall have the right to terminate this Lease if the loss is not covered by Lessor's insurance, or if the holder of any Security Instrument requires that the insurance proceeds be applied to the payment of the mortgage debt. If this Lease is not, or cannot be, terminated in accordance with the foregoing, then, subject to receipt of sufficient insurance proceeds and delays due to any cause beyond the reasonable control of Lessor, Lessor shall commence to restore the Premises to substantially the same condition that existed immediately prior to the Casualty, except for modifications required by applicable Laws, and excluding the repair, restoration or replacement of the fixtures, equipment, or alterations made by Lessee (including the Solar Power Facility). Notwithstanding the foregoing, either Party may terminate this Lease if the Premises are damaged by a Casualty during the last year of the Term and Lessor reasonably estimates that it will take more than three (3) months to repair such damage. Lessor shall not be liable for any inconvenience to Lessee, or injury to Lessee's business resulting in any way from the Casualty or the repair thereof. Lessee shall not interfere with or delay, but shall cooperate with Lessor in Lessor's completion of, Lessor's repair and restoration obligations. Lessee agrees that the terms of this Article shall govern any damage or destruction and shall accordingly supersede any contrary statute or rule of law.

11.2 Condemnation. If all of the Premises is taken by acquisition by a public authority under Law or by right of eminent domain or by a private purchase in lieu thereof ("Taken" or "Taking"), then this Lease shall terminate. If (a) any part of the Premises is Taken and (i) the Taking would materially interfere with or impair Lessor's ownership or operation of the Building and/or the Property (as determined by Lessor), (ii) the remainder is insufficient in Lessor's opinion for the reasonable operation of Lessee's business, or (b) any of the Building or the Property is Taken and in Lessor's opinion it would be impractical or the condemnation proceeds are insufficient to restore the remainder, then, in each case, upon written notice by Lessor, this Lease shall terminate. In the event this Lease is terminated in accordance with either of the foregoing sentences, then this Lease shall terminate as of the date the condemning authority takes possession and Base Rent shall be apportioned as of said date. If this Lease is not terminated as provided above, then, subject to any delays beyond the reasonable control of Lessor, Lessor shall restore the Building to a condition as near as reasonably possible to the condition prior to the Taking (except for modifications required by applicable Laws, and excluding the repair, restoration or replacement of the fixtures, equipment, or alterations made by Lessee, including the Solar Power Facility, and the Base Rent payable hereunder during the unexpired Term shall be reduced to such extent as Lessor reasonably determines under the circumstances. In the event of any such Taking, Lessor shall be entitled to receive the entire price or award from any such Taking without any payment to Lessee, and Lessee hereby assigns to Lessor Lessee's interest, if any, in such award. Lessee shall have the right, to the extent that same shall not diminish Lessor's award, to make a separate claim against the condemning authority (but not Lessor) for such compensation as may be separately awarded or recoverable by Lessee for moving expenses and damage to the Solar Power Facility, if a separate award for such items is made to Lessee. Lessee agrees that the terms of this Article shall govern any Taking and shall accordingly supersede any contrary statute or rule of law.

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ARTICLE 12
LESSEE SELF-HELP

Notwithstanding Section 19.1 and 19.2 below, if Lessor fails to observe, perform, or comply with any material obligation under this Agreement, and such failure renders any portion of the Premises unable to be leased or materially interferes with Lessee's ability to install, maintain, use or operate the Solar Power Facility, or would result in a lien or other encumbrance on the Solar Power Facility, Lessee may, upon thirty (30) days prior written notice to Lessor, cure any such failure. In such case, all reasonable expenses incurred by Lessee in curing Lessor's failure shall be due and payable from Lessor to Lessee within twenty (20) days after delivery of notice to Lessor of the amount of such expenses. Any due but unpaid sums shall bear interest from the date due at six percent (6%) per annum (or if such rate exceeds the maximum rate allowed by law, such maximum rate) until fully paid.

ARTICLE 13
ASSIGNMENT

Except as expressly set forth hereinbelow, Lessee shall not assign this Lease (an "Assignment") without the prior written consent of Lessor, such consent not to be unreasonably withheld, conditioned or delayed. To request Lessor's consent to any Assignment, Lessee shall notify Lessor in writing, which notice (the "Assignment Notice") shall include (a) the proposed effective date of the Assignment, which shall not be less than ten (10) business days after the date of delivery of the Assignment Notice, (b) all of the terms of the proposed Assignment, the name and address of the proposed assignee (the "Assignee"), and a copy of all existing and/or proposed documentation pertaining to the proposed Assignment, including all existing operative documents to be executed to evidence such Assignment or the agreements incidental or related to such Assignment, and (c) current financial statements of the proposed Assignee certified by an officer, partner or owner thereof, and any other information reasonably required by Lessor, which will enable Lessor to determine the financial responsibility of the proposed Assignee, nature of such Assignee's business and proposed use of the Premises and such other information as Lessor may reasonably require. Except as expressly set forth hereinbelow, any Assignment made without Lessor's prior written consent shall, at Lessor's option, be null, void and of no effect, and shall, at Lessor's option, constitute a default by Lessee under this Lease. Lessor and Lessee acknowledge and agree that in no event shall Lessee be permitted to subLease all or any portion of the Premises. Upon any Assignment, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) any consent given by Lessor, to the extent required hereunder, shall not be deemed consent to any further Assignment by either Lessee or an Assignee, and (iii) Lessee shall deliver to Lessor, promptly after execution, an executed copy of the form of assignment agreement (reasonably acceptable to Lessor), and (iv) such Assignee shall be liable for the payment of all sums due under this Lease and the performance and observance of all the agreements, covenants, conditions and provisions to be performed and observed by Lessee under this Lease as and when performance and observance are due. Notwithstanding any assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the Base Rent and for compliance with all of Lessee's other obligations under this Lease (regardless of whether Lessor's approval has been obtained for any such Assignment). In addition, any Assignee (including any Assignee pursuant to the paragraph immediately below), must confirm that the representations and warranties set forth in Section 17.2 and Section 17.3 below are true as to such Assignee. Lessee shall pay Lessor's reasonable attorneys' and financial consultants' fees incurred in the review of any such proposed Assignment whether or not an Assignment is consummated or approval granted.

Notwithstanding the foregoing or anything to the contrary contained herein, without the prior written consent of Lessor and provided that any assignee, or its ultimate parent entity, has a net worth of at least equal or greater to the greater of (i) that of Lessee at the time of such transfer or (ii) $50,000,000.00, Lessee may assign its rights and obligations hereunder to (a) any Affiliate of Lessee; (b) any entity which results from a merger of, reorganization of, or consolidation with Lessee or Lessee's affiliates; (c) any entity engaged in a joint venture with Lessee or Lessee's Affiliates; (d) any entity which acquires substantially all of the stock or assets of Lessee or Lessee's Affiliates, as a going concern, with respect to the business that is being conducted in the Premises; (e) to Lessee's Financing Party, on a collateral basis or otherwise; and (f) to any entity the day-to-day operations of which are controlled by Lessee or its Affiliates (in each instance, a "Permitted Transfer"). Subject to the restrictions set forth in this Article 13, the rights and obligations under this Lease shall be binding upon and shall inure to the benefit of Lessee and Lessor and their respective permitted successors and assigns. Lessor's consent to any assignment shall not be deemed a waiver of Lessor's right to consent to any future assignment or sublicensing.

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Lessee acknowledges that Lessor has the right to transfer all or any portion of its interest in the Property and Building and in this Lease without Lessee's consent, and Lessee agrees that in the event of any such transfer, Lessor shall be released from all remaining liability under this Lease provided that such transferee of Lessor assumes all of Lessor's obligations and covenants under this Lease as evidenced in writing pursuant to a form of assignment and assumption agreement reasonably acceptable to Lessee and Lessor, as of the date of such assignment or transfer, in which case Lessee agrees to look solely to such transferee for the performance of Lessor's obligations hereunder after the date of transfer. Lessor shall provide the name of the transferee to Lessee once it is determined that a transfer will take place, provided that such disclosure shall not be in conflict with the terms of any applicable purchase and sale agreement for such transfer. Lessor shall be liable only for breaches of Lessor's obligations occurring while Lessor is owner of the fee of which the Property are a part (provided, however, that if Lessor shall ever sell and lease-back such fee, or the ground thereof or the improvements thereon, then "fee" shall, in such event, be deemed to mean Lessor's leasehold interest). Lessee (and all persons claiming by, through or under Lessee) agrees to look solely to Lessor's interest from time to time in the Property (including the uncollected rents, issues, profits, and proceeds thereof, subject to the superior rights of mortgagees therein) for satisfaction of any claim or recovery of any judgment from Lessor; it being agreed that neither Lessor nor Lessor Parties shall ever be personally or individually liable for any claim or judgment, or otherwise, to Lessee (or such persons).

ARTICLE 14
LESSEE FINANCING

14.1 Lessor acknowledges that Lessee may be financing a part or all of its capital requirements for the installation of the Solar Power Facility and its operation and maintenance with a Lender. Lessee may choose the manner of financing the Solar Power Facility and the financing parties in Lessee's sole discretion. The transaction costs and repayment of any such Lessee financing shall be borne entirely by Lessee. Neither Lessor's interest in the Property nor Lessor's rights under this Agreement may be subordinated to a mortgage or other lien or encumbrance created by Lessee.

(a) Lessee may assign and transfer as security to any Lender all of the interest, rights and remedies of Lessee in, to and with respect to this Agreement or with respect to the Solar Power Facility. Such security may be the granting of a first priority or purchase money security interest (a "Security Interest") in the Solar Power Facility that will be perfected by a filing under the Uniform Commercial Code as adopted in the State of New Jersey. Lessor consents to such filings.

(b) Lessor shall place its successors and assigns on notice of the ownership of the Solar Power Facility by Lessee and the interest of any Lender therein, the existence of the Security Interest, and the fact that the Solar Power Facility is not part of the Property or a fixture thereof, as necessary and appropriate to avoid confusion or adverse claims.

(c) Lessor shall, at no cost to Lessor, provide all reasonable assistance to Lessee to help Lessee consummate financing of the Solar Power Facility by any Lender. Lessor shall use its best efforts to obtain any lien waivers, execution of commercial law forms and other documents (including customary consents and estoppels) as reasonably needed by Lessee or any Lender to secure such Lender's collateral position in the Solar Power Facility or in Lessee's rights under this Agreement.

(d) Lessee may authorize and empower the Lender to assert, either directly or on behalf of the assigning party, any claims that Lessee may have against Lessor under this Agreement and make, constitute, and appoint the Lender as the true and lawful attorney and agent-in-fact of Lessee for the purpose of enabling the Lender to assert and collect such claims.

(e) Upon any acquisition of Lessee's rights by a Lender or an operator designated pursuant to the provisions of any Lessee financing agreement, Lessor shall accept such Lender or designated operator in place of Lessee for all purposes under or in connection with this Agreement for the remainder of the Term.

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ARTICLE 15
WAIVER

The failure of a Party to insist, in any one or more instances, upon strict performance of any covenants or agreements of this Lease, or to exercise any option of such Party herein contained, shall not be construed as a waiver or relinquishment of any right or remedy of such Party hereunder and shall not be deemed a waiver of any subsequent breach or default by the other Party of the covenants or conditions herein. No waiver by a Party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party.

ARTICLE 16
SUBORDINATION AND NONDISTURBANCE; ESTOPPEL CERTIFICATE

16.1 **Subordination.** Subject to the provisions in Article 16.2 below, (a) all rights and interests of Lessee hereunder and all rights and interests of the holder of any Security Interest are and shall be and remain subject and subordinate to all mortgages, trust deeds, ground Leases, or security instruments (each of which shall be referred to herein as a "Security Instrument"), heretofore or hereafter given and encumbering the Property, or any part thereof, and to all renewals, modifications, consolidations, replacements, and extensions of any such Security Instrument. If the holder of a Security Instrument or any Person agreeing to make a loan secured by a Security Instrument on the Property shall require confirmation of any subordination for which provision is herein made or a separate subordination agreement with respect to any transaction, Lessee shall execute such confirmation or subordination agreement in a form reasonably acceptable to Lessee, subject to Article 16.2 below. Notwithstanding anything to the contrary contained in this Article 16, the holder of any such Security Instrument may at any time subordinate its Security Instrument to this Lease, without Lessee's consent, by notice in writing to Lessee, and thereupon this Lease shall be deemed prior to such Security Instrument without regard to their respective dates of executing, delivery or recording and in the event such holder of the Security Instrument shall have the same rights with respect to this Lease as though this Lease has been executed prior to the executing, delivery and recording of such Security Instrument. No holder of the Security Instrument shall: (a) be obligated to cure any default of Lessor; (b) be bound by (i) any payment of Base Rent for more than 1 month in advance, (ii) the obligation for any broker commission(s), or (iii) any amendment or modification of this Lease made without the express written consent of such holder of the Security Instrument; and (c) be liable for, nor subject to, (i) any offsets or defenses which Lessee may have by reason of any act or omission of Lessor under this Lease, or (ii) for the return of any sums which Lessee may have paid to Lessor under this Lease as and for security deposits, advance rentals or otherwise, except to the extent that such sums are actually delivered by Lessor to the holder of such Security Instrument. The provisions of Article 11 above notwithstanding, Lessor's obligation to restore the Premises after a Casualty or Taking shall be subject to the consent and prior rights of any holder of a Security Instrument. In the event any proceedings are brought for foreclosure of, or in the event of the exercise of any power of sale under, any Security Instrument, Lessee shall attorn to the Security Instrument holder or purchaser upon any such foreclosure or sale and recognize such holder or purchaser as Lessor under this Lease. In the event of any conflict between this Lease and any Security Instrument, the terms of the Security Instrument shall govern and control.

16.2 **Nondisturbance.** Notwithstanding the provisions of Article 16.1, Lessor shall endeavor to and use commercially reasonable efforts to obtain for Lessee a Subordination, Nondisturbance, and Attornment agreement in form and substance reasonably acceptable to Lessee, which agreement shall provide that, during the Term and so long as this Lease is in effect, and there is no Event of Default by Lessee hereunder, and notwithstanding any foreclosure under the Security Instrument or deed in lieu of foreclosure, Lessee's rights to peaceful occupation and possession of the Premises in accordance with the provisions of this Lease, and all of Lessee's rights and privileges in this Lease, shall not be disturbed during the Term.

16.3 **Estoppel Certificates**. Either Party shall provide to the other, within ten (10) business days of written request from the requesting Party, an estoppel certificate in form reasonably satisfactory to the requesting Party certifying that this Lease is unmodified and in full force and effect or that this Lease is in full force and effect as modified, with the modifications being stated. Such estoppel certificates shall also state (a) the amount of monthly Rent, the date to which the Rent has been paid in advance, and the amount of any security deposit or prepaid Rent,

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if any, (b) that the Party requesting the estoppel certificate is not in default under the Lease, or if such Party is in default, the specific nature of such default, and (c) any other factual matters as may be reasonably requested by the requesting Party. Lessor's lenders and prospective purchasers of the Property, and Lessee's lenders, and their respective successors and assigns, shall be entitled to reasonably rely upon such estoppel certificates.

ARTICLE 17
CERTAIN COVENANTS AND REPRESENTATIONS

17.1 **Covenants of Lessor**. Lessor represents and warrants to Lessee that: (a) Lessor owns title to the Premises in fee simple and that the Premises is free from any and all liens, claims, encumbrances and commitments to third parties except for any presently existing Security Instrument that, in each case, would materially interfere with Lessee's intended use and enjoyment of the Premises or Lessee's other rights hereunder; and (b) Lessor has the power and authority to execute and deliver this Agreement and to perform all of the obligations to be performed by Lessor hereunder.

17.2 **Covenants of Lessee**. Lessee represents to Lessor that Lessee has full power and authority to enter into this Lease in accordance with its terms, and that this Lease is a valid and binding obligation of Lessee, enforceable against Lessee pursuant to its terms, and the execution of this Lease shall not constitute a breach or default of any other agreement to which Lessee or its Affiliate is a party.

17.3 **OFAC**. Lessee hereby represents, warrants and certifies that: (i) neither it nor its officers, directors, or controlling owners is acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist, "Specifically Designated National or Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control ("SDN"); (ii) neither it nor its officers, directors or controlling owners is engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation; and (iii) neither it nor its officers, directors or controlling owners is in violation of Presidential Executive Order 13224, the USA PATRIOT Act, (Public Law 107-56), the Bank Secrecy Act, the Money Laundering Control Act or any regulations promulgated pursuant thereto. If the foregoing representations are untrue at any time during the Term, an Event of Default will be deemed to have occurred, without the necessity of notice to Lessee. The provisions of this Section shall survive the expiration or earlier termination of this Lease. In the event that Lessee makes a transfer subject to Article 13 of this Agreement, following such transfer the new Lessee entity or its then-current owner(s) shall satisfy the representations and warranties set forth in this Section 17.3.

17.4 **Solar Easement.** Lessor hereby agrees, for itself, its agents, employees, representatives, successors and assigns, that it will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Solar Power Facilities or their functions, including, without limitation, activities that may adversely affect the Solar Power Facilities' exposure to sunlight. Lessor further covenants for itself, its agents, employees, representatives, successors and assigns that it will not (i) interfere with or prohibit the free and complete use and enjoyment by Lessee of its rights granted under this Lease; (ii) take any action which will interfere with the availability and accessibility of solar radiation over and above the Premises; (iii) take any action that will or may materially interfere with the transmission of electric, electromagnetic or other forms of energy to or from the Premises; (iv) take any action that may impair Lessee's access to the Premises for the purposes specified in this Lease; or (v) plant any vegetation or erect any structure which will, during daylight, cast a shadow on the Solar Power Facilities, and in the event that any of the aforementioned events occur that adversely affect the Solar Power Facilities, Lessee shall be entitled damages based on the duration of the event, provided that Lessee promptly provides Lessor with written notice of the existence of such event. In the event that any of the aforementioned events occur and the duration of the event is temporary in that the obstruction can reasonably be cured within thirty (30) days from the date that Lessor receives such notice from Lessee, then Lessee shall be entitled to Lost Energy Revenue as its exclusive remedy. In the event that any of the aforementioned events occur and the duration of the event is permanent in nature, or would extend beyond a thirty (30) day cure period (extended to sixty (60) days if cure is diligently pursued), then Lessee may choose either to receive Lost Energy Revenue for that portion of the Solar Power Facility that no longer maintains exposure to sunlight or to terminate this Lease with

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regard to that portion of the Solar Power Facilities that no longer maintains exposure to sunlight. In the event that Lessee elects to terminate this Lease with respect to a portion of the Solar Power Facilities, then Lessor shall pay to Lessee an amount equal to the Termination Payment on **Exhibit E** for the corresponding year in which termination occurs. The amount of the Termination Payment shall be proportional to the amount of the system that suffers a permanent decrease in access to sunlight.

17.5 **Lessee Rights to Electricity and Environmental Attributes**. Lessor acknowledges that Lessee or its affiliate or transferee is the exclusive owner of electricity (kWh) generated by the Solar Power Facility and of the environmental attributes and environmental incentives of and arising from the Solar Power Facility. Without the express written consent of Lessee, Lessor shall not make or publish any statement or notice regarding any environmental incentive relating to the Solar Power Facility or any environmental attribute of the Solar Power Facility or the energy output from the Solar Power Facility.

17.6 **No Liens or Hazardous Materials**. Lessor represents and warrants to Lessee that there are no liens, security interests or other encumbrances on the Property except for any Lessor Security Instrument and other matters that may appear on Lessee's title report. Lessee hereby covenants to Lessor that Lessee will not use, store, handle, or dispose of Hazardous Materials on or about the Property or Premises.

ARTICLE 18
OWNERSHIP OF AND TITLE TO SOLAR POWER FACILITIES

18.1 **Ownership of Solar Power Facilities**. Notwithstanding any Solar Power Facility's presence on the Premises or Property and method of attachment thereto, Lessee shall at all times retain title to and be the legal and beneficial owner of such Solar Power Facility and all alterations, additions or improvements made thereto and replacements thereof by Lessee, and such Solar Power Facility shall remain the property of Lessee or Lessee's assigns. Lessee shall be entitled to, and is hereby authorized to, file one or more precautionary financing statements or fixture filings in such jurisdictions as it deems appropriate with respect to any Solar Power Facility in order to protect its rights in such Solar Power Facility. In no event shall anyone claiming by, through, or under Lessor (including to any present or future mortgagee of the Property) have any rights in or to any Solar Power Facility at any time.

18.2 **Tax Purposes**. The Parties specifically acknowledge and agree that Lessee shall be the owner of each Solar Power Facility for federal income tax purposes, and in that connection, shall be entitled to the depreciation deductions associated with each Solar Power Facility as well as any tax credits or other tax benefits to which such owner may be entitled.

18.3 **Liens**. Notwithstanding any Solar Power Facility's presence on the Property and method of attachment thereto, Lessor shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to such Solar Power Facility or any interest therein. Lessor also shall pay promptly before a fine or penalty may attach to any Solar Power Facility any taxes, charges or fees of whatever type of any relevant governmental authority for which Lessor is responsible. If Lessor breaches its obligations under this Article 18.3, it shall immediately notify Lessee in writing and shall promptly cause such liens to be discharged and released of record without cost to Lessee.

ARTICLE 19
DEFAULT AND REMEDIES

19.1 **Default**. Each of the following occurrences shall constitute an "Event of Default" under this Lease:

(a) Lessee's Monetary Default. Lessee's failure to pay the Base Rent or any other payment required to be paid herein, within (i) five (5) business days following Lessee's receipt of written notice that the same was not paid when due with regard to the first (1st) such failure in any twelve (12)-month period, or (ii) two (2)

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business days following Lessee's receipt of written notice that the same was not paid when due with regard to any subsequent failure in the same twelve (12)-month period.

(b) Intentionally Omitted.

(c) Non-Monetary Default. Breach by Lessee of any non-monetary provision of this Lease (except as set forth in subsection (d) below), where such breach shall continue for a period of thirty (30) days after receipt of written notice thereof from Lessor; provided, however, that if the nature of Lessee's nonperformance is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if such commences such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion, provided that such cure must be completed within sixty (60) days after receipt of the original notice.

(d) Insurance. If insurance required to be maintained by Lessee pursuant to this Lease shall be cancelled or terminated or shall expire and the same is not reinstated on the earlier to occur of two (2) business days of (i) Lessee's receipt of written notice therefor from Lessor or (ii) Lessee's actual knowledge of such cancellation or termination.

(e) Unauthorized Transfer. There shall occur any assignment, subleasing or other transfer of Lessee's interest in or with respect to this Lease except as otherwise permitted in this Lease.

(f) Failure to Discharge Lien. Except as otherwise expressly permitted hereunder, Lessee shall fail to discharge, or bond over, any lien placed upon the Premises or Property within ten (10) business days after Lessee receives written notice that any such lien or encumbrance is filed against the Premises or Property.

(g) Other Default. In the event Lessee (A) makes a general assignment for the benefit of creditors; (B) commences any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "proceeding for relief"); (C) becomes the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry; or (D) is dissolved or otherwise fails to maintain its legal existence.

(h) Lessor's Default. Lessor's failure to pay the Lost Energy Revenue or any other payment required to be paid herein within thirty (30) business days following Lessor's receipt of written notice that the same was not paid when due shall be a default by Lessor. Except as expressly provided in this Lease, in no event shall Lessor be in default unless notice thereof has been given to Lessor (and all mortgagees for which Lessee timely received such mortgagee's notice address) and Lessor (or any such mortgagee at its sole discretion) fails to perform within thirty (30) days (provided, however, that such thirty (30) day period shall be reasonably extended if such performance begins within such period and thereafter is diligently pursued, or if such mortgagee notifies Lessee within such period that it intends to cure on behalf of Lessor and thereafter begins curing within such period, or if later within thirty (30) days after acquiring possession of the Property if the cure requires the mortgagee to obtain possession of the Property, and diligently pursues curing with reasonable promptness). Notwithstanding the foregoing, in no event shall any Lessor or any Lessor mortgagee be entitled to more than sixty (60) days to cure any such default hereunder. Any mortgagee notice and cure periods set forth in any subordination, nondisturbance and attornment agreement then in effect under this Lease shall control to the extent the same differ from the foregoing.

19.2 Remedies.

(a) Upon the occurrence of an Event of Default by Lessee that extends beyond all applicable notice and cure periods, Lessor shall have, in addition to any other remedies available to Lessor at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever except as expressly set forth herein. Lessor may, at its option, terminate this Lease in accordance with Section 19.2(b) of this Lease, in which event Lessee

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shall surrender the Premises to Lessor in accordance with the terms of this Lease and if Lessee fails to do so, Lessor may, in compliance with applicable law and without prejudice to any other remedy, at law or in equity, which it may have for possession or arrearages in Base Rent, enter upon and take possession of the Premises and expel or remove Lessee and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim of damages therefor; and Lessor may recover from Lessee such amounts as available pursuant to applicable law and the Solar Power Facilities shall be deemed abandoned and shall become the property of Lessor upon Lessee's surrender of the Premises. If Lessor does not elect to terminate this Lease on account of any default by Lessee, Lessor may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, in accordance with Section 19.2(g) of this Lease, including the right to recover all Base Rent as it becomes due.

(b) Termination Damages. If this Lease is terminated due to an Event of Default by Lessee following the expiration of all applicable notice and cure periods, subject to any legal obligation Lessor may have to mitigate its damages then unless Lessor elects lump sum liquidated damages described in Section 19.2(c) of this Lease, Lessee covenants after any such termination, to pay punctually to Lessor all the sums and perform all the obligations which Lessee covenants in this Lease to pay and to perform in the same manner and to the same extent and at the same time as if this Lease had not been terminated. In calculating the amounts to be paid by Lessee pursuant to the preceding sentence Lessee shall be credited with the net proceeds of any Base Rent then actually received by Lessor from a reletting of the Premises after deducting all sums provided for in this Lease to be paid by Lessee and not then paid. In no event shall Lessee be liable for indirect or consequential damages except: (i) in the case of holding over for a period in excess of thirty (30) days when notice of a new tenancy has been provided in advance; or (ii) to the extent arising as a result of any default, breach or misrepresentation by Lessee with respect to any agreement, covenant, obligation, representation or warranty of Lessee set forth in this Lease pertaining to the environmental condition of the Premises, any environmental Laws or ordinances pertaining to the Premises.

(c) Lump Sum Liquidated Damages. If this Lease is terminated due to an Event of Default, then Lessee covenants, as an additional obligation after termination, to pay forthwith to Lessor at Lessor's election made by notice to Lessee at any time, as liquidated damages a single lump sum payment equal to the sum of (i) all sums provided for in this Lease to be paid by Lessee up to the date of such election by Lessor (i.e., any unpaid monthly Base Rent or other sums then due from Lessee to Lessor on the date of termination and any unpaid monthly Base Rent or other sums due from the date of termination until such election) and not then paid at the time of such election, and in addition (ii) an amount equal to the sum of all of the Base Rent and other sums due hereunder and payable with respect to the twelve (12) month period next following the date of termination, and (iii) the actual, reasonable out-of-pocket cost of removal of the Solar Power Facilities).

(d) Remedies Cumulative. Any and all rights and remedies Lessor or Lessee may have under this Lease, and at law and equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two (2) or more of all such rights and remedies may be exercised at the same time insofar as permitted by law. Nothing contained in this Lease shall, however, limit or prejudice the right of Lessor or Lessee to prove and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when and governing the proceedings in which the damages are to be proved, whether such amount be greater, equal to, or less than the amount of the loss or damages referred to in Section 19.2 of this Lease.

(e) Effect of Waivers of Default. Any consent or permission by Lessor or Lessee to any act or omission which otherwise would be a breach of any covenant or condition, or any waiver by Lessor or Lessee of the breach of any covenant or condition, shall not in any way be held or construed to operate so as to impair the continuing obligation of such covenant or condition, or otherwise operate to permit other similar acts or omissions. No breach shall be deemed to have been waived unless and until such waiver be in writing and signed by the other Party. The failure of Lessor or Lessee to seek redress for violation of or insist upon the strict performance of any covenant or condition of this Lease, or the receipt by Lessor of Base Rent with knowledge of any violation, shall not be deemed a consent to or waiver of such violation, nor shall it prevent a subsequent act, which would otherwise constitute a violation, from in fact being a violation.

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(f) No Accord and Satisfaction; No Surrender. Except as otherwise set forth in this Lease, no acceptance by Lessor of a lesser sum than the Base Rent, or any other sum or charge then due shall be deemed to be other than on account of the earliest installment of such fees, rent, sum or charge due; nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such installment or pursue any other right or remedy available to it. The removal of the Solar Power Facilities (or any similar act) shall not operate as a termination of this Lease or an acceptance of a surrender of the Premises.

(g) Lessor's Curing and Enforcement. If Lessee shall neglect or fail to perform or observe any covenant or condition of this Lease and shall not cure such default or Event of Default within the applicable cure period following receipt of written notice therefor (if required under this Lease), Lessor may, at its option, without waiving any claim for breach, at any time thereafter cure such default or Event of Default for the account of Lessee, and any amount paid or any liability incurred by Lessor in so doing shall be deemed paid or incurred for the account of Lessee, and Lessee shall reimburse Lessor for the reasonable, out-of-pocket cost therefor, upon receipt of a written demand; and Lessee shall further indemnify and save Lessor harmless in the manner elsewhere provided in this Lease in connection with all of Lessor's actions in effecting any such cure. Lessor may also draw down on the Bond to cure any unpaid amounts owed by Lessee. Notwithstanding any other provision herein concerning cure periods, Lessor may cure any default or Event of Default for the account of Lessee after such notice to Lessee, if any, as is reasonable under the circumstances (including telephone notice) if the curing of such default or Event of Default prior to the expiration of the applicable cure period is due to an Emergency. Lessee shall pay to Lessor on demand all of the costs and expenses of Lessor payable pursuant to this Section 19.2(g), including such administrative charge and reasonable outside attorneys' fees, incurred in enforcing any covenant or condition of this Lease. Without limiting any of its other rights or remedies, any sum due hereunder shall, in addition, bear interest from the date due at the greater of (i) one percent (1.00%) for each month (or ratable portion thereof) the same remains unpaid, or (ii) three percent (3.00%) per annum (or ratable portion thereof) above the so-called prime rate of interest published in The Wall Street Journal from time to time on ninety (90) day loans to its most credit-worthy borrowers; provided that interest shall never exceed the maximum rate permitted under applicable law.

(h) Insurance Default. In the event Lessee breaches any covenant or fails to observe any condition set forth in Section 9 of this Lease with respect to the insurance required to be maintained by Lessee, then and without limiting any other right or remedy, and notwithstanding any other provision herein concerning notice and cure of defaults or Events of Default, Lessor may upon two (2) business days' prior written notice to Lessee obtain such insurance, and Lessee shall pay the cost thereof and Lessor's expenses related thereto upon demand.

(i) Lessee's Remedies. Upon a default by Lessor that is not cured within the permitted time under Section 19.1(h), above, Lessee may, at its option (but without obligation to do so), declare an Event of Default and avail itself of all available rights at law and equity, but in no event shall Lessor's exposure exceed the applicable Early Termination Payment set forth on **Exhibit E**. The costs and expenses of any such performance by Lessee shall be due and payable by Lessor upon receipt of reasonable written evidence therefor.

19.3 **Notices**. All notices, requests, demands, invoices or other communications given, delivered or made under this Lease shall be in writing and will be delivered by personal delivery, certified mail, in each case, return receipt requested and postage prepaid, or nationally recognized overnight courier, to the address for notices set forth on the signature pages hereto. Such notice shall be deemed received upon receipt as indicated by the date on the signed receipt, or if delivery is refused or the applicable notice address is no longer valid, three (3) days after notice is deposited in the U.S. mail or with a carrier service in the manner described above. A Party may change the address shown on its signature page hereto upon ten (10) days' prior written notice given in accordance with this paragraph.

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ARTICLE 20
MISCELLANEOUS

20.1 **Amendments**. Changes in or additions to this Lease may only be by a writing executed by each of the Parties.

20.2 **Brokerage Commissions**. Lessor and Lessee have dealt directly as principals and neither Party has knowledge of any brokerage commission claimed or payable as a result of the execution of this Lease except for Black Bear Energy, Inc. Each Party hereby agrees to indemnify, defend and hold harmless the other Party from and against claims for brokerage commissions asserted by any third party other than Black Bear Energy, Inc. as a result of actions by the indemnifying Party claimed to give rise to brokerage commissions payable as a result of the execution of this Lease, which indemnification shall survive the expiration or earlier termination of this Lease.

20.3 **Governing Law**. This Lease shall be deemed a contract made under the Laws of the State of New Jersey and, together with the rights and obligations of the Parties hereunder, shall be construed under and governed by the Laws of such State without reference to its principles of conflicts of laws.

20.4 **Confidentiality**. If any Party provides confidential information, including, without limitation, information such as business plans, strategies, financial information, patented, licensed, copyrighted or trademarked information or technical information regarding the design, operation and maintenance of the Solar Power Facility or their business (collectively, "Confidential Information") to the other Party, or, if in the course of negotiating or performing this Agreement a Party learns Confidential Information from another Party, the receiving Party shall (a) not disclose such Confidential Information, or the terms and conditions of this Agreement, to any third party without the express written agreement of the disclosing Party; (b) protect the Confidential Information from disclosure to third parties with the same degree of care given to its own confidential and proprietary information; and (c) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the foregoing, a Party may provide such Confidential Information to its officers, directors, members, manager, employees, agents, counsel, contractors, consultants, affiliates, Lenders and potential assignees of this Agreement, provided that the same are bound by a professional duty or written agreement restricting use and disclosure of Confidential Information, in each case, whose access is reasonably necessary to the negotiation and performance of this Agreement. Confidential Information does not include information (1) that is publicly available; (2) that is obtained from a third party not under a restriction of disclosure; or (3) that is independently developed by the receiving Party without reliance on, use of, or reference to the Confidential Information. A Party may disclose information that they are legally required to disclose, provided that they give (to the extent legally permissible) prompt advance written notice of such disclosure so that the disclosing Party may contest the need for disclosure and/or protection of the information with the appropriate requesting entity.

20.5 **Choice of Forum**. Each Party irrevocably and unconditionally: (a) agrees that any suit, action, or other legal proceeding arising out of this Lease shall be brought in the federal or state courts located in the State of New Jersey; (b) consents to the jurisdiction of any such court or arbitration panel in any such suit, action or proceeding; and (c) waives any objection which such Party may have to the laying of venue of any such suit, action, or proceeding.

20.6 **Waiver of Jury Trial**. The Parties hereby knowingly, voluntarily, and intentionally waive any rights they may have to a jury trial in respect of any litigation based hereon or arising out of, under, or in connection with this Lease, or any course of conduct, course of dealing, statements (whether oral or written), or actions of the Parties with respect hereto.

20.7 **Integration**. This Lease constitutes the entire agreement among the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the Parties with respect to the subject matter hereof.

20.8 **Severability**. The invalidity or unenforceability of any provision of this Lease shall in no way affect the validity or enforceability of any other provision.

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20.9 **Survival of Provisions**. Any obligation of the Parties relating to monies owed, limitations on liability, indemnity and actions, and confidentiality, shall survive termination or expiration of this Lease.

20.10 **No Third-Party Beneficiaries**. Nothing in this Lease shall provide any benefit to any third party (other than the Lender) or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Lease shall not be construed as a third-party beneficiary contract.

20.11 **Relationship of Parties**. This Lease is not intended, and shall not be construed, to create any association, joint venture, partnership or agency relationship between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as, or be an agent or representative of, or otherwise bind, the other Party.

20.12 **Interpretation**. In this Lease:

a) The captions and Article headings used herein are for convenience and reference only and shall not have any effect on the construction of this Lease;

b) All pronouns as used in this Lease shall be deemed to refer to the singular, plural, masculine, feminine and neuter genders as the context requires or permits;

c) The terms "hereof," "herein," "hereto," "hereunder" and words of similar or like import refer to this entire Lease and not any particular Article, Exhibit or other subdivision of this Lease;

d) Unless otherwise provided, references to a particular "Article," or "Exhibit" are references to that Article or Exhibit of this Lease;

e) The words "include," "includes" and "including" shall be deemed to be followed by "without limitation" or "but not limited to."

f) All capitalized terms used but not defined in any Exhibit shall have the meaning set forth in this Lease.

20.13 **Counterparts**. This Lease may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute but one and the same agreement. Signatures delivered electronically by .pdf or facsimile shall be binding for all purposes hereof. Upon the request of Lessee, Lessor agrees to deliver to Lessee, to have and to hold and to facilitate Lessee's obtaining title insurance for the Premises created by this Lease, an original of this Lease signed by Lessor with pen and blue ink.

20.14 **Joint Preparation**. This Lease has been negotiated by all Parties hereto with the assistance and input of their respective attorneys, and therefore no ambiguity herein shall be construed for or against any Party based upon the identity of the author of this Lease or any portion hereof.

20.15 **Time of Essence.** Time is of the essence of this Lease.

20.16 **Force Majeure.** Neither Party shall be deemed to be in breach of this Lease and no default shall be deemed to occur under this Lease to the extent that such Party's delay or failure in the performance of its obligations under this Lease (other than the obligation to pay money) is due to an event of Force Majeure. The Party claiming an event of Force Majeure shall: (a) give the other Party reasonably prompt written notice describing the particulars of the occurrence; (b) suspend performance for no greater scope and no longer duration than is required by the event of Force Majeure; (c) use its reasonable commercial efforts to remedy its inability to perform; and (d) when able to resume performance of its obligations under this Lease, give the other Party written notice to that effect.

20.17 **Memorandum of Agreement.** The Parties agree that this Lease is not intended by them to be recorded. Upon request by Lessor or Lessee, and upon Lessor's approval of the instrument in question, the other Party shall execute a Memorandum of Agreement meeting the requirements of the county in which the Solar Power

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Facility is located, which Memorandum of Agreement shall be recorded by the requesting Party in the public records at the requesting Party's expense. To the extent that such instrument is recorded, Lessee shall be responsible to pay all transfer taxes that may accrue as a result of such recording.

20.18 **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the successors and assigns of Lessor, and subject to compliance with Article 13, Lessee.

20.19 **Unrelated Business Income.** If Lessor is advised by its counsel at any time that any part of the payments by Lessee to Lessor under this Lease may be characterized as unrelated business income under the United States Internal Revenue Code and its regulations, then Lessee shall enter into any amendment proposed by Lessor to avoid such income, so long as the amendment does not require Lessee to make more payments or accept fewer services from Lessor, than this Lease provides.

20.20 **Waiver of Redemption of Lessee.** Lessee hereby waives, for Lessee and for all those claiming under Lessee, all rights now or hereafter existing to redeem by order or judgment of any court or by any legal process or writ, Lessee's right of occupancy of the Premises or Property after any termination of this Lease.

20.21 **Rights Reserved by Lessor**. Lessor excepts and reserves exclusively to itself any and all rights not specifically granted to Lessee under this Lease. Lessor reserves the right to make changes to the Property and Building as Lessor deems appropriate, including without limitation, the right to grant easements, rights of way, utility raceways and make dedications; to grant lease, Lease or use rights to third parties, to utilize the foregoing easements or Leases on the Property and/or the Building, to dedicate for public use portions of the Property and/or the Building and to change the name of the Building and/or the Property.

[Signature Pages Follow]

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IN WITNESS WHEREOF, the Parties have executed this Lease on the day and year first above written.

Lessor:

BREIT INDUSTRIAL CANYON NJ2B01 LLC,
a Delaware limited liability company

DocuSigned by:

By: James Maneri
FAB12F98FA8F40C...
Name: James V. Maneri
Title: Authorized Signatory

Address for Notice Purposes:

c/o Link Logistics Real Estate Management LLC
602 W. Office Center Drive, Suite 200
Fort Washington, Pennsylvania 19034

with copy to

c/o Link Logistics Real Estate Management LLC
90 Park Avenue, 32nd Floor
New York, New York 10016
Attn: General Counsel

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Lessee:

SRE SOLAR ORIGINATION 2, LLC,
a Delaware limited liability company

By: _____
Name: Steve Raeder
Title: CEO

Address for notice purposes:

Summit Ridge Energy
1515 Wilson Blvd, Ste 300
Arlington, VA 22209
c/o Zach Friedman

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EXHIBIT A

DESCRIPTION OF THE PROPERTY

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Township of Logan in the County of Gloucester, State of NJ:

Parcel 1 (Lot 1) All that certain Parcel or Tract of land situated in the Township of Logan, County of Gloucester, State of New Jersey as shown on a Plan entitled "Block 2901-Lots 1 & 1.01, ALTA/ACSM Land Title Survey" prepared by Pennoni Associates Inc. Plan No. PURL0901/S0301, and being more particularly bound and described as follows:

Beginning at a point on the southerly right of way line of Birch Creek Road (60.00 foot wide) said point being the following 4 courses and distances from a railroad spike located at the centerline of Center Square Road, County Route No. 620 (35.00 half width) and the original centerline of Birch Creek Road;

(A) Along the original centerline of Birch Creek Road, North 42 degrees 20 minutes 07 seconds east a distance of 37.17 feet to a point;

(B) Leaving said centerline, South 47 degrees 39 minutes 53 seconds east a distance of 69.28 feet to a point on the southerly right of way line of Birch Creek Road;

The following 7 courses and distances are along the southerly right of way line of Birch Creek Road

(C) Along a curve concave to the east, having a radius of 25.00 feet, an arc length of 40.05 feet and a chord bearing of North 03 degrees 33 minutes 11 seconds west to a point of tangency;

(D) North 42 degrees 20 minutes 07 seconds east a distance of 634.11 feet to the point of beginning; thence

(1) North 42 degrees 20 minutes 07 seconds east a distance of 188.75 feet to a point of curvature; thence

(2) Along a curve concave to the south having a radius of 570.00 feet, an arc length of 41.09 feet and chord bearing on North 44 degrees 24 minutes 01 seconds east to a point of compound curvature; thence

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(3) Along a curve concave to the south, having a radius of 25.00 feet, an arc length of 22.55 feet and a chord bearing of North 72 degrees 18 minutes 00 seconds east to a point of reverse curvature; thence

(4) Along a curve concave to the north having a radius of 60.00 feet, an arc length of 51.57 feet and a chord bearing of North 73 degrees 30 minutes 39 seconds east to a point; thence

(5) North 48 degrees 53 minutes 13 seconds east a distance of 63.17 feet to a point; thence

(6) Leaving said right of way line, South 44 degrees 08 minutes 19 seconds east a distance of 630.41 feet along the division line of Block 2901 Lots 1 and 15 to a point; thence

(7) South 45 degrees 51 minutes 41 seconds west a distance of 356.34 feet along the division line of Block 2901 Lots 1 and 2 to a point; thence

(8) North 44 degrees 08 minutes 19 seconds west a distance of 653.99 feet along the division line of Block 2901 Lots 1 and 1.01 to the point of beginning.

Parcel 2 (Lot 1.01) Parcel 1 (Lot 1) All that certain Parcel or Tract of land situated in the Township of Logan, County of Gloucester, State of New Jersey as shown on a Plan entitled "Block 2901-Lots 1 & 1.01, ALTA/ACSM Land Title Survey" prepared by Pennoni Associates Inc. Plan No. PURL0901/S0301, and being more particularly bound and described as follows:

Beginning at a point on the southerly right of way line of Birch Creek Road (60.00 foot wide) said point being the following 2 courses and distances from a railroad spike located at the centerline of Center Square Road, County Route No. 620 (35.00 half width) and the original centerline of Birch Creek Road;

(A) Along the original centerline of Birch Creek Road, North 42 degrees 20 minutes 07 seconds east a distance of 37.17 feet to a point;

(B) Leaving said centerline, South 47 degrees 39 minutes 53 seconds east a distance of 69.28 feet to the point of beginning.

Thence (1) Along the southerly right of way line of Birch Creek Road, and along a curve concave to the east, having a radius of 25.00 feet, an arc length of 40.05 feet and a chord bearing of North 03 degrees 33 minutes 11 seconds west to a point of tangency;

Thence (2) Continuing along said right of way line, North 42 degrees 20 minutes 07 seconds east, a distance of 634.11 feet to a point;

Thence (3) Leaving said right of way line, South 44 degrees 08 minutes 19 seconds east a distance of 653.99 feet along the division line of Block 2901 Lots 1 and Lot 1.01 to a point;

Thence (4) South 45 degrees 51 minutes 41 seconds west a distance of 601.71 feet along the division line of Block 2901 Lots 1.01 and 2, to a point on the northeasterly right of way line of Center Square Road;

Thence (5) Along said right of way North 49 degrees 26 minutes 30 seconds west a distance of 590.26 feet to the point of beginning.

NOTE FOR INFORMATIONAL PURPOSES ONLY: Being known and designated as Lot 1, **Block** 2901, **Qualifier** on the Tax Map in the Township of Logan in the County of Gloucester, State of NJ

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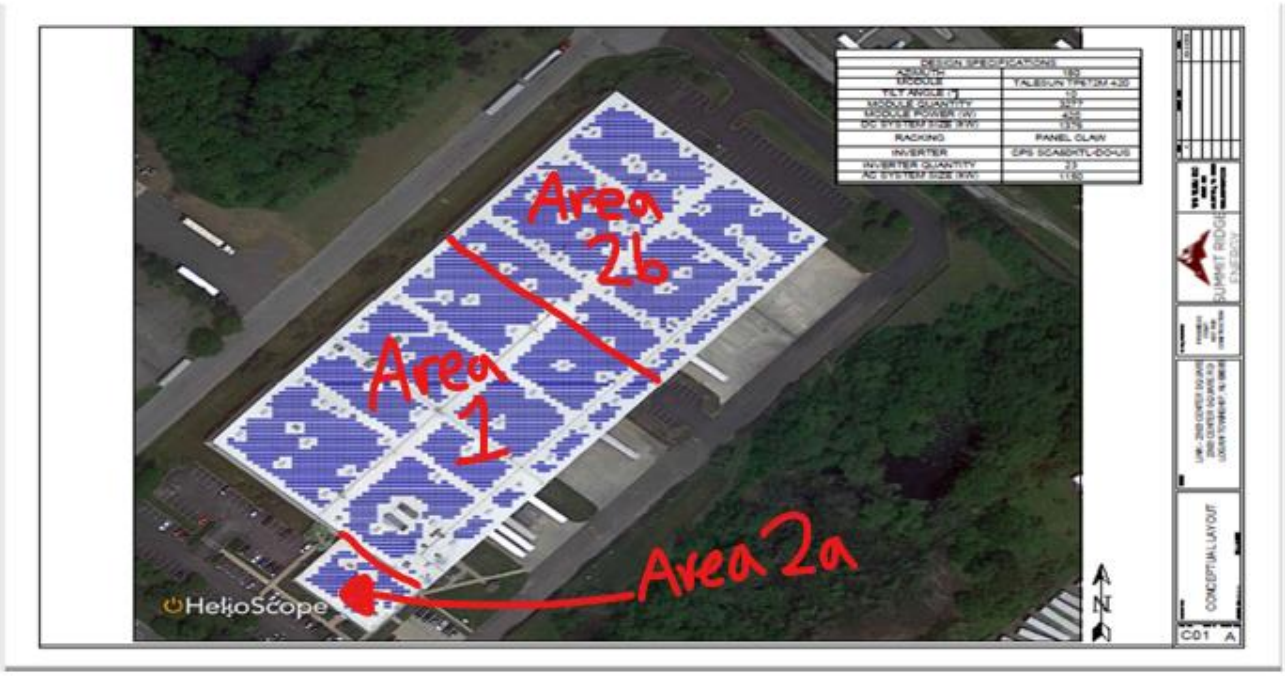
EXHIBIT B

DESCRIPTION OF THE PREMISES

The current estimated system size is 1378.00. These are good faith estimates, which the parties anticipate will change one or more times during development. These and any final plans are subject to the approvals in the Lease.

The "Reserve Areas" shall mean those areas of the Premises occupied by Lessor's HVAC Units, antennas and other communication equipment, and water collection facilities, and/or such other equipment as Lessor shall deem reasonably necessary or appropriate (collectively, the "Rooftop Utilities") as of the date of the Execution Date, together with such additional Rooftop Utilities as Lessor may install from time to time, in accordance with the terms of the Lease, subject to the payment of any applicable Termination Payment.



Area 1: 110,000 sf

Area 2a: 9,000 sf

Area 2b: 84, 000 sf

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EXHIBIT C

MAP OF LAYDOWN AREA

All final plans are subject to approval per the lease.

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EXHIBIT D

INSURANCE REQUIREMENTS

Lessee's Insurance. Lessee, at its expense, shall maintain during the Term, and the EPC Contractor shall cause any other contractors and subcontractors to maintain prior to performing any Lessee Work on the Property to maintain the following insurance policies: all risk property insurance covering the full replacement cost of the Solar Power Facility; worker's compensation insurance within the statutory limits and employer's liability insurance with annual limits of: Bodily Injury by Accident, each Accident: $1,000,000 each Employee: $1,000,000; commercial business auto policy covering all owned, hired and non-owned automobiles, truck and trailers is required, with coverage limits not less than $1,000,000 combined single limit each accident for bodily injury and property damage; and commercial general liability insurance, with a minimum limit of $1,000,000 per occurrence for property damage and $2,000,000 in the aggregate, personal injuries, or deaths of persons occurring in or about the Premises together with an umbrella policy in the amount of $10,000,000; and products and completed operations coverage in the amount of $5,000,000 relating to the installation of the Solar Power Facilities. The commercial general liability policies shall name Lessor as an additional insured, insure on an occurrence and not a claims-made basis, be issued by insurance companies which are licensed to do business in the state in which the Property is located, not be cancelable unless thirty (30) days' prior written notice (except that only ten (10) days' notice shall be required for non-payment of premium) shall have been given to Lessor and provide primary coverage to Lessor (any policy issued to Lessor providing duplicate or similar coverage shall be deemed excess over Lessee's policies). Notwithstanding anything to the contrary contained herein, Lessee shall have the right to obtain the insurance of the kind and in the amounts provided for under this paragraph under a blanket insurance policy covering other properties as well as the Premises or pursuant to a corporate policy of self-insurance.

Certificates of Insurance. Lessee shall deliver to Lessor certificates of insurance for all insurance required to be maintained by Lessee in the form of ACORD 28 (Evidence of Commercial Property Insurance) and ACORD 25-S (Certificate of Liability Insurance) (or in a form acceptable to Lessor in its reasonable discretion), no later than seven (7) days after the Effective Date of this Lease (but in any event prior to any entry onto the Premises by Lessee or any employee, agent or contractor of Lessee). Upon request, Lessee shall also provide to Lessor endorsements for all insurance required to be maintained by Lessee hereof. In the event that a claim is filed under any applicable insurance policy, upon request, Lessee shall provide a copy of the applicable policy to Lessor, subject to commercially reasonable redaction of economic premium costs. Lessee shall, at least ten (10) days prior to expiration of any required coverage, furnish Lessor with certificates of renewal or endorsements thereof. Acceptance by Lessor of delivery of any certificates of insurance does not constitute approval or agreement by Lessor that the insurance requirements in this Section have been met, and failure of Lessor to demand such evidence of full compliance with these insurance requirements or failure of Lessor to identify a deficiency from evidence provided will not be construed as a waiver of Lessee's obligation to maintain such insurance. If Lessee fails to maintain any insurance required in this Lease, Lessee shall be liable for all losses and costs suffered or incurred by Lessor (including litigation costs and attorneys' fees and expenses) resulting from said failure. If Lessee fails to deliver any certificate or renewal to Lessor required under this Lease within the prescribed time period or if any such policy is canceled or modified during the Term without Lessor's prior written consent, Lessor may obtain such insurance for the exclusive benefit of Lessor, in which case Lessee shall reimburse Lessor for the cost of such insurance within 15 days after receipt of a statement that indicates the cost of such insurance.

Additional Insureds; Primary Coverage. Lessor, Lessor's Mortgagee, if any, any property management company of Lessor for the Premises, and any other party designated by Lessor shall be named as additional insureds ("Additional Insureds") under the required policies. Insurance Services Office ("ISO") endorsement CG 201011 85 under all of the policies required by this paragraph, and such endorsement shall be included with the certificates to be provided to Lessor pursuant to this section. The policies carried or required to be carried by Lessee pursuant to this paragraph shall provide for severability of interest and shall be primary as respects the Additional Insureds, and any insurance maintained by the Additional Insureds shall be excess and non-contributing. Lessor is to be insured as its interests may appear.

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EXHIBIT E

TERMINATION PAYMENT SCHEDULE

The current estimated system size is 1378.00. Changes in the system size will result in these values changing on an equivalent basis.

Year	Termination Value
1	$4,354,480
2	$4,043,304
3	$3,721,738
4	$3,388,700
5	$3,044,893
6	$2,158,543
7	$2,014,611
8	$1,858,246
9	$1,688,755
10	$1,674,960
11	$1,464,706
12	$1,301,662
13	$1,017,943
14	$978,918
15	$774,035
16	$597,327
17	$478,341
18	$348,626
19	$208,346
20	$56,160

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EXHIBIT F

PLAN FOR LESSEE'S WORK

Will be provided in the future. All final plans are subject to Lessor's approval per the lease.

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EXHIBIT G

MAXIMUM LESSOR EXPOSURE

The current estimated system size is 1378.00. Changes in the system size will result in these values changing on an equivalent basis.

$836,515.00, per year

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EXHIBIT H

LOST ENERGY REVENUE

The current estimated system size is 1378.00. Changes in the system size will result in these values changing on an equivalent basis.

Year		**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
Annual Production		1758328	1749536.36	1740788.68	1732084.73	1723424.31	1714807.19	1706233.15	1697701.99	1689213.48	1680767.41
Revenues	Power Sales	$ 166,162	$ 167,811	$ 166,972	$ 166,137	$ 165,307	$ 164,480	$ 163,658	$ 162,839	$ 162,025	$ 161,215
	SRECs	$ 149,458	$ 148,711	$ 147,967	$ 147,227	$ 146,491	$ 145,759	$ 145,030	$ 144,305	$ 143,583	$ 142,865
Lost Energy Revenues ($/kWh)		$ 0.180	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181
Year		**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**
Annual Production		1672363.57	1664001.76	1655681.75	1647403.34	1639166.32	1630970.49	1622815.64	1614701.56	1606628.05	1598594.91
Revenues	Power Sales	$ 160,409	$ 159,607	$ 158,809	$ 158,015	$ 157,225	$ 156,439	$ 155,656	$ 154,878	$ 154,104	$ 153,333
	SRECs	$ 142,151	$ 141,440	$ 140,733	$ 140,029	$ 139,329					
Lost Energy Revenues ($/kWh)		$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.181	$ 0.096	$ 0.096	$ 0.096	$ 0.096	$ 0.096

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EXHIBIT I

DECOMMISSIONING ASSURANCE

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Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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