

Name: Christopher Smith

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Transaction Day/Date/Time: Monday 03/02/20 03:34:20 PM EST

How is revenue generated from the project? Please generally describe fee method(s) used.: **Revenue is generated via a one time bonus (\$1,500/MW), easement payment for access roads and interconnect lines, an annual minimum production payment (determined by revenue projections) generally \$3,600/MW - \$5,000/MW with an annual escalator (2-3%) and a royalty payment (the amount greater than the minimum production payment) determined by % of gross revenues, starting out at 3-4% escalating a percent every 5 years.**

If revenue is based on land value, please explain how the land value was determined and describe the math used for the fee calculation(s). **NA**

When in the process are bonding and decommissioning plans required and how is the bonding amount determined? **Decommissioning plans and bonding are required as part of the production lease. Bonding is determined by a base of \$25,000 and then an additional \$25,000 per Mega Watt.**

Please describe the type of environmental review required for the project and when it is/was completed in the process. **Environmental studies are submitted and reviewed under the planning lease, prior to a production lease being submitted.**

Please explain if there are any Land Board or other authorizing entity approval requirements, and when those approvals occur in the process. **Yes, all federal and local requirements must be followed and is typically done during the planning lease. The State Land Board reviews and approves all required documents within the lease.**

If you require competitive bidding or other solicitation for wind/solar projects, please briefly describe the process.: **We do not require competitive bidding or other solicitation for our renewable energy production leases. However, we have gone through a Request For Proposal (RFP) process when issuing a planning lease.**



STATE OF COLORADO  
STATE BOARD OF LAND  
COMMISSIONERS

**SOLAR ENERGY PRODUCTION LEASE NO. «NLTRANID»**

**1. PARTIES**

THIS LEASE is entered into at Denver, Colorado, on this \_\_\_\_\_ day of \_\_\_\_\_ (the "Effective Date") by and between the State of Colorado, acting through its State Board of Land Commissioners ("State Land Board"), whose address is 1127 Sherman Street, Suite 300, Denver, CO 80203, and «NLCUSTBODY\_HEIN\_MM\_LESSEES» whose address is «NLBILLADDRESS» ("Lessee," whether one or more). Notwithstanding any rights established under an applicable Planning lease (Planning Lease No. \_\_\_\_\_) between Lessee and the State Land Board, Lessee shall have no rights to possession of the Leased Premises (defined below in §4) or other rights under this Lease until it is approved and signed by the State Land Board. The State Land Board and Lessee ("Parties") agree to the following terms and conditions:

**2. CONSIDERATION**

The Parties acknowledge that the mutual promises and covenants contained in this Lease and other good and valuable consideration are sufficient and adequate to support this Lease.

**3. LEASE DEFINITION**

"Lease" means this Lease, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of the Lease, amendments, riders, and any future modifying agreements, exhibits, attachments or references incorporated in this Lease pursuant to Colorado State Law, Fiscal Rules, State Controller Policies, and State Land Board policies, directives and schedules.

**4. DESCRIPTION OF THE LEASED PREMISES**

The State Land Board leases to Lessee and Lessee leases from the State Land Board the surface use of Trust lands situated in the County of «NLCUSTBODY\_HEIN\_MM\_COUNTY», State of Colorado, more particularly described in Exhibit "A" attached and made apart hereof ("Leased Premises") along with all easements for access and interconnection of utilities as shown on Exhibit "B" attached hereto. Subject however, to all existing leases, easements, rights-of-ways, and other interest whether or not visible on the ground, and further subject to the terms, conditions, and agreements set out in this Lease. The State Land Board represents that all of the leases, rights-of-way, and agreements in effect on the Leased Premises as of the Effective Date are listed on Exhibit "C".

**5. USE OF THE LEASED PREMISES**

Lessee may access, occupy, and use the Leased Premises solely and exclusively for solar energy development and production. Lessee has the right and privilege to pursue development of a \_\_\_\_\_ megawatt (MW) Solar Facility with production capabilities noted in Solar Rewards Community Reservation Letter, signed by a bona fide power purchaser, a memorandum of which is attached hereto as Exhibit "D" and may combine the Leased Premises with other adjacent lands to form a solar energy development and production project area ("Project Area").

For purposes of this Lease, "Solar Energy Development and Production" means converting solar energy into electrical energy, and collecting and transmitting the electrical energy so converted, together with any and all activities directly related thereto, including, (a) determining the feasibility of solar energy conversion to electrical energy on the Leased Premises, including studies of solar insolation, meteorological data, and extracting soil samples; (b) constructing, installing, using, replacing, relocating, removing, maintaining, and operating solar energy collection and electrical generating equipment of all types including any such equipment utilizing photovoltaic and/or solar thermal technology ("Solar Power Generating Facilities"), overhead and underground electrical transmission and communications lines, electric transformers, electric inverters, energy storage facilities, telecommunications equipment, power generation facilities to be operated in conjunction with large solar energy producing installations, roads, weather monitoring equipment, meteorological towers and solar measurement equipment, support structures, control buildings, maintenance yards, and related facilities and equipment (collectively "Solar Power Facilities") on the Leased Premises; and

(c) undertaking any other activities that Lessee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing, including the right of ingress to and egress from Solar Power Facilities over and across the Leased Premises by means of roads and lanes thereon if existing, or otherwise by such route or routes as Lessee may construct from time to time, provided however that Solar Power Facilities and rights to construct such facilities do not include the right to construct electrical substations or transmission lines of greater than 115 KV.

## **6. TERM**

The initial term of this Lease is for a term of **twenty (20)** years beginning on the Commercial Operation Date (the "Term") and ending **twenty (20)** years thereafter, on the **twentieth** anniversary of the Commercial Operation Date.

A. Construction Period. Lessee shall have a maximum of four (4) months from the Effective Date to construct the Solar Power Facilities (the "Construction Period") and begin the generation, delivery, and commercial sale of electricity (the first date of such being the "Commercial Operation Date"); unless terminated sooner or extended as provided for in this Lease, subject to compliance with the terms and conditions of this Lease. The Lessee shall pay the State Land Board, in advance, the sum of **Five Thousand and 00/100 Dollars (\$5,000)** for the entirety of the Construction Period.

Lessee may make a written request for an extension of the Construction Period at least thirty (30) days prior to the expiration of the Construction Period and by paying the State Land Board an extension consideration fee of **Five Thousand and 00/100 Dollars (\$5,000)** per month for the requested extension. Extensions are granted for one month periods only and may not be pro-rated. If Lessee fails to begin the generation, delivery, and commercial sale of electricity by the end of the Construction Period, Lessee shall be in default and subject to Section 43 of this Lease.

B. Extension. The State Land Board shall grant Lessee a preferential right to extend the Term of this Lease or to receive a new lease under the following conditions:

- 1) An extension of this Lease would, as determined in the sole discretion of the State Land Board, be in the best interest of the Trust administered by the State Land Board;
- 2) Lessee shall furnish to the State Land Board satisfactory evidence of plans for continued generation of electric power during the term of the extension or during the term of a new lease;
- 3) Lessee shall furnish adequate marketing and engineering evidence to the State Land Board that the acreage subject to the extended or new lease is in fact an integral part of the Project;

- 4) Six months prior to the end of the term for this Lease, Lessee shall provide notice to the State Land Board of its intention to extend this Lease or seek a new lease for an additional term of a minimum of five years, and
- 5) Lessee and the State Land Board commence exclusive negotiations to extend or renew this Lease and that negotiations include, but not be limited to, annual production payments, rental rates, Bonus Payments, extension term, additional fees, and methodology for increasing the payments over time.

If negotiations do not result in agreement between the Parties by the end of the term of this Lease, then the State Land Board reserves the right to withhold granting of an extension of this Lease or the issuance of a new lease, and reserves the right to seek other parties qualified to lease the Leased Premises.

## **7. RENT**

All payments shall be made by cash, check, certified check or money order. Payments shall commence on the Effective Date of this Lease. Payments having restrictions, qualifications, or encumbrances of any kind shall not be binding upon the State Land Board. Lessee shall pay the State Land Board the following amounts:

A. Bonus Payment. A one time ("Bonus Payment") of **Nine Hundred Fifty Seventy Three and 50/100 Dollars (\$973.50)** shall be paid in full at the time of lease execution. The Bonus payment is based off of \$1,500 per megawatt ("MW") of installed capacity of the Solar Power Generating Facilities located on the Leased Premises to be built in any particular phase of construction, based on such facilities' anticipated size based on solar panel output (DC). In the case of a subsequent increase in the total MW of the Solar Power Generating Facilities installed on the Leased Premises, Lessee shall pay an additional Bonus Payment for the subsequent increase in the total MW of the Solar Power Generating Facilities, as set forth in this provision, within thirty (30) days after such Solar Power Generating Facilities start producing electricity in commercial quantities. No additional Bonus Payment shall be due in the case of replacement of existing Solar Power Generating Facilities or repowering that does not increase the total MW of Solar Power Generating Facilities installed on the Leased Premises.

B. Annual Payments

The period from the Commercial Operation Date through December 31st in the first year of this Lease shall be the "First Production Lease Year." Every subsequent calendar year thereafter (January 1st through December 31st each year through the Term of this Lease, as defined below), with the exception of the "Final Production Lease Year," shall be known as a "Production Lease Year." The Final Production Lease Year shall be the period commencing on January 1st in the **twentieth** year of this Lease and ending on the thirtieth anniversary of the Commercial Operation Date. The First Production Lease Year, Final Production Lease Year, and every Production Lease year in between shall be herein referred to collectively as "Production Lease Years."

"Gross Revenues" for each Production Lease Year, or portion thereof, shall be defined substantially to include gross proceeds received from all sales of solar energy and all payments from a solar energy buyer based on capacity of, or non-generation of electricity by, the Solar Power Generating Facilities.

1. Minimum Production Payment. Lessee shall pay a Minimum Production Payment on the Commercial Operation Date of this Lease and on every January 1<sup>st</sup> thereafter until the expiration or termination of this Lease. The "Minimum Production Payment" shall be **Two Thousand One Hundred Fifty and 00/100 Dollars (\$2,150)**. On each January 1<sup>st</sup> after the Commercial Operation Date of this Lease, through the Term of this Lease, the Minimum Production Payment shall be

adjusted upwards by **two percent (2.0%)** each year and compounded annually. In the event that the First or Final Production Lease Year is for a period of less than twelve (12) months, the Minimum Production Payment for such First or Final Production Lease Year shall be prorated accordingly.

2. **Royalty Production Payment.** For all Production Lease Years, until the expiration or termination of this Lease, Lessee shall also pay to Lessor a Royalty Production Payment as provided in this Section. As established below, Lessee is obligated to pay Lessor a Royalty Production Payment for each Production Lease Year, First Production Lease Year or Final Production Lease Year that the Lessee's percentage of total Gross Revenues exceeds the Minimum Production Payment, as adjusted. In the event that Lessee's percentage of total Gross Revenues do not exceed the Minimum Production Payment, as adjusted, for a Production Lease Year, First Production Lease Year or Final Production Lease Year, Lessee will not be obligated to make a Royalty Production Payment to Lessor for that year. Within thirty (30) days following the end of each Production Lease Year, First Production Lease Year, and Final Production Lease Year, Lessee shall pay the Royalty Production Payments to Lessor and send to Lessor a statement setting forth the amount of total Gross Revenues for such year and the accounting for any Royalty Production Payment. To the extent allowed pursuant to the Colorado Open Records Act, Section 24-72-201 et seq., C.R.S., all such information provided to Lessor shall be kept confidential and not released to third parties without the express written consent of Lessee, for the Term of this Lease plus five (5) years. The "Royalty Production Payment" shall be calculated as follows:
  - a. For the first one-hundred-twenty (120) months of the Lease Term (the period commencing on the Commercial Operation Date and ending on the tenth anniversary of the Commercial Operation Date), an amount equal to (i) **four percent (4%)** of Lessee's total Gross Revenues for the applicable year minus (ii) the Minimum Production Payment for such year.
  - b. For the next hundred twenty (120) months of the Lease Term (the period commencing on the tenth anniversary of the Commercial Operation Date and ending on the twentieth anniversary of the Commercial Operation Date), an amount equal to (i) **five percent (5%)** of Lessee's total Gross Revenues for the applicable year minus (ii) the Minimum Production Payment for such year.

## **8. EASEMENTS AND RIGHT-OF-WAYS**

Lessee shall pay the State Land Board a one-time payment in the amount of **Five Hundred and 00/100 dollars (\$500)** for access roads identified in the Site Plan upon execution of this Lease.

All new roads created by lessee in existence on the Commercial Operation Date that are not required to operate and maintain Solar Power Generating Facilities after the Commercial Operation Date shall be reclaimed pursuant to Section 27 of this Lease. New and existing roads in existence on the Commercial Operation Date that are required to operate and maintain Solar Power Generating Facilities after the Commercial Operation Date shall not exceed sixteen (16) feet in width and the Leased Premises outside of the sixteen (16) feet limitation shall be reclaimed pursuant to Section 27 of this Lease.

Lessee shall pay the State Land Board a one-time payment in the amount of **Five Hundred and 00/100 dollars (\$500)** for below ground circuits, including all such circuits not in excess of 115kV, which may collectively consist of electric and communications cables, lines or wires constructed by Lessee on the Leased Premises. Electrical lines in excess of 115kV will require the application of a right-of-way utilizing the State Land Boards current right-of-way process and fees. The State Land Boards current right-of-way process and fees are available on-line through the State Land Board's official website and through any office of the State Land Board. Payment shall not be imposed on Lessee for circuits needed internal to the project to

connect the facilities to internal power gathering stations.

Lessee shall pay the State Land Board any amount(s) due under this Section within thirty (30) days after the Commercial Operation Date associated with the subject installation.

## **9. METEOROLOGICAL ("MET") TOWER SITE EASEMENT AND MET TOWER ACESST EASEMENTS**

If Lessee installs towers, sensors, and data logging electronics on the Leased Premises for the sole purpose of collecting meteorological data (a "Met Tower"), Lessee shall pay the State Land Board a fee of one thousand dollars (\$1,000.00) per Met Tower installed on the Leased Premises per year while the Met Tower is installed, payable annually within thirty (30) days after the end of each calendar year, beginning with the year in which the Met Tower is installed, prorated for any partial year. The fee described in this paragraph for partial years shall be prorated based on the number of days elapsed during any such partial year.

## **10. COMPENSATION ADJUSTMENT**

When constructed by Lessee, the Solar Power Generating Facilities are anticipated to be part of an integrated Solar Power Project (the "Project") covering approximately «NLCCUSTBODY\_HEIN\_TOTAL\_ACREAGE» of land, including the Leased Premises. The parties acknowledge and agree it is their intention that the State Land Board shall receive no less compensation for Lessee's use of the Leased Premises for Solar Energy Development and Production than the compensation received by every other lessor of land (other than the State Land Board) whose land is used in connection with or otherwise included in the Project as of the Effective Date of this Lease. Except for agreements secured by unaffiliated third parties or through options secured by unaffiliated third parties and assigned to Lessee, if any, (collectively, the "Excluded Agreements", which are expressly excluded from the provisions of this paragraph,) the State Land Board and Lessee agree that if any other lessor receives a larger compensation amount (the "Other Lessor's Compensation") for inclusion of said other lessor's land in the Project, than the Production Payment and other payments that the State Land Board has or is otherwise scheduled to receive in this Lease (whether already paid, or scheduled to be paid in the future), shall automatically be adjusted to equal the Other Lessor's Compensation. Upon an adjustment of the compensation to an amount which equals the Other Lessor's Compensation, Lessee shall immediately forward a makeup payment to the State Land Board by paying an amount which, when added to past payments made by Lessee to the State Land Board, shall equal the Other Lessor's Compensation up to the point in time that the compensation was adjusted. Thereafter, Lessee shall make scheduled payments to the State Land Board in an amount that equals the Other Lessor's Compensation. The Other Lessor's Compensation shall mean the total amount of all compensation (whether paid by Lessee or any other party), however categorized and whether paid in money, in-kind or otherwise, for inclusion of the other lessors' lands, in whole or part, in the Project.

Lessee shall notify the State Land Board of any compensation adjustment and prepare and deliver to the State Land Board for execution an amendment to this Lease modifying the payment terms hereunder to reflect the compensation adjustment and match in aggregate those more favorable terms governing the Other Lessor's Compensation.

## **11. NO REPRESENTATION**

Lessee makes no representation or warranty as to the likelihood that the Solar Power Generating Facilities will generate sufficient electricity, or that any purchase or sales agreement for such electricity will provide adequate revenues, so as to create any entitlement to the State Land Board of Production Payments during any period of time. The State Land Board acknowledges that the operation of the Solar Power Generating Facilities is subject to adverse weather, lack of sunlight, equipment failures and other events beyond the control of Lessee which may interrupt or prevent electricity generation, and that receipts for electricity generated may also be affected by the terms of any relevant purchase or sale agreement and performance

by any buyer. Any representation by Lessee to the State Land Board as to the expected production from the Solar Power Generating Facilities or the amount of expected Production Payments is purely an estimate based on the information available to Lessee at the time and is not a guarantee that any such production will occur or that such an amount of Production Payment will become due to the State Land Board at any time. Lessee makes no covenant, representation, or warranty that any number of solar panels will be installed on the Leased Premises or on any other property that is part of the Project Area. Nothing in this Section shall limit the Minimum Production Payment due under Section 7.B if Solar Power Generating Facilities are installed on the Leased Premises.

## **12. ASSESSMENTS, TAXES, UTILITIES, AND COSTS**

Lessee must pay, when due, all assessments, taxes, fees, water and utility charges, if any, levied or accruing against the Leased Premises, improvements, appurtenances, uses or activities of Lessee, including those that could otherwise result in a lien being placed against the Leased Premises.

It is understood and agreed that all taxes, assessments, insurance, utilities, and other operating costs and the costs of all repairs, remodeling, renovations, alterations, and improvements, and all other direct costs, charges and expenses of any kind whatsoever respecting the Leased Premises shall be borne by the Lessee and not by the State Land Board so that the Rent, Production Payment, Bonus Payments, or other consideration to be paid to the State Land Board shall not be reduced, offset, or diminished directly or indirectly by any cost or charge, nor subject to suspension or termination for any cause.

## **13. PENALTY AND INTEREST**

Both a penalty and interest fee will be imposed for, but not limited to, late payments, improper or partial payments, violation of any covenant of this Lease, or false statements made to the State Land Board. Penalty and interest shall be calculated based on the State Land Board's "Fees and Payment Considerations" schedule at the time the penalty and interest is imposed. "Fees and Payment Considerations" schedules, as adopted by the State Land Board, are effective upon approval by the State Land Board. A current "Fees and Payment Considerations" schedule is available on-line through the State Land Board's official website and through any of the State Land Board's offices.

## **14. WAIVER OF COVENANTS REGARDING CONDITION OF LAND**

Lessee leases the Leased Premises in its "as is" condition with all faults, including the environmental condition of the land, based on Lessee's own inspection of and judgment regarding the land. The State Land Board makes and Lessee affirms that the State Land Board has made no representations or warranties of any kind whatsoever with regard to the condition of the land or its fitness or suitability for any particular use. Lessee acknowledges that it is solely responsible for performing its own due diligence and for becoming fully familiar with the condition of the Leased Premises and any applicable rights, reservations, restrictions, uses, or other conditions that might affect its development or use for a particular purpose.

## **15. ASSIGNMENT**

Lessee, with written approval of the State Land Board that shall not be unreasonably withheld, may assign all or part of Lessee's leasehold interest in the Leased Premises. However, Lessee may not make a partial assignment of tracts of less than approximately 40 acres or Governmental lots corresponding to a quarter-quarter section. For approval of such assignment the State Land Board may charge an assignment consideration in an amount specified herein. Notwithstanding the foregoing, Lessee may assign this Lease (i) to an affiliated company or (ii) as collateral to an entity or entities providing financing for the construction and/or operation of the Solar Power Generating Facilities ("Collateral Assignment"), in either case without the

need for the State Land Board's consent. In the case of a Collateral Assignment per subhead (ii), Lessee shall not be relieved of its obligations under the Lease following such assignment.

If an assignment of a part of this Lease is approved, a new lease designated as an assignment lease will be issued to the assignee covering the lands assigned for the balance of the term of this Lease on the Solar Energy Production Lease form in use at the time of assignment and limited to the Term of this Lease. The assignor will be released and discharged from all future obligations for such lands assigned. An assignment shall not relieve Lessee from any liability that arose prior to the assignment.

No assignment or transfer of this Lease requiring consent pursuant to the foregoing provisions of this Section will be held valid by the State Land Board unless made with its consent in writing, on the assignment forms in use by the State Land Board, and duly entered in the books or records of the State Land Board.

## **16. ASSIGNMENT CONSIDERATION**

No assignment consideration will be charged if the assignment is made to a company affiliated with Lessee or is a Collateral Assignment. For any other assignment, the consideration to be paid by Lessee to the State Land Board upon approval of the assignment by the State Land Board shall be **one thousand dollars (\$1,000)** per acre assigned. An assignment does not constitute a new lease, but is a continuation of this Lease. Any attempt to withhold information regarding an assignment or Lessee's failure to inform the State Land Board of any and all assignments shall be construed as an attempt to defraud the State of Colorado and may render this Lease null, void, and nonexistent, and all monies paid to the State Land Board shall be forfeited to the State Land Board. In addition, the statutory fees in effect at the time of the assignment will be paid at the time the assignment record form is submitted by Lessee to the State Land Board.

## **17. FINANCING**

- A. **Right to Mortgage.** Lessee may, upon written notice to the State Land Board, mortgage or otherwise encumber and grant security interests in all or any part of its interest in this Lease and the Solar Power Generating Facilities. These various security interests in all or a part of the Lease and the Solar Power Generating Facilities are collectively referred to as Mortgages and the holders of the Mortgages, their assigns and designees are referred to as Mortgagees. Mortgagees which are of record with the State Land Board through written notice by Lessee shall use the Leased Premises only for the uses permitted in this Lease. Mortgagees shall have all rights and remedies allowed them under then existing laws, provided that under no circumstances shall any Mortgagee have any greater rights of ownership or use of the Leased Premises than the rights granted to Lessee in this Lease (except for the extended cure rights in Section 17.d.).
- B. **State Land Board Obligations.** The State Land Board agrees to consent in writing to financing documents as may reasonably be required by Mortgagees. As a precondition to exercising any rights or remedies related to any alleged default by Lessee under this agreement, the State Land Board shall give written notice of the default to each Mortgagee that is of record with the State Land Board, at the same time it delivers notice of default to Lessee, specifying the alleged event of default and the required remedy. Each Mortgagee shall have the same amount of time to cure the default as to Lessee's entire interest or its partial interest in the Solar Power Generating Facilities as is given to Lessee and the same right as Lessee to cure any default or to remove any property of Lessee or Mortgagee located on the Leased Premises. The cure period for each Mortgagee shall begin to run at the end of the cure period given to Lessee in this agreement, but in no case shall the cure period for any Mortgagee be less than one hundred twenty (120) days after receipt of default notice. Failure of the State Land Board to give Mortgagee notice shall not diminish the State Land Board's rights against Lessee, but shall preserve all rights of the Mortgagee to cure any default and to remove any property of Lessee or the Mortgagee located on the Leased Premises.

- C. Mortgagee Obligations. Any Mortgagee that does not directly hold an interest in the Solar Power Generating Facilities, or whose interest is held solely for security purposes, shall have no obligation or liability under this agreement until such time as such Mortgagee acquires Lessee's interest subject to the lien of its Mortgage by foreclosure or otherwise assumes the obligations of, or succeeds to absolute title to, Lessee's interest.
- D. Right to Cure Defaults / Notice of Defaults / Right to New Lease. To prevent termination of this Lease, the Mortgagee shall have the right, but not the obligation, at any time to perform any act necessary to cure any default and to prevent the termination of this Lease or any interest in the Solar Power Generating Facilities. In the event of an uncured default by the holder of Lessee's entire interest in this Lease, or in the event of a termination of this agreement by agreement, by operation of law or otherwise, each Mortgagee that is not in default of its obligations, shall have the right to have the State Land Board either recognize the Mortgagee's interest or grant a new lease substantially identical to this Lease. Under the new lease, the Mortgagee shall be entitled to, and the State Land Board shall not disturb Mortgagee's continued use and enjoyment for the remainder of the Lease Term.
- E. Extended Cure Period. If any default by Lessee under this Lease cannot be cured without obtaining possession of all or part of the Solar Power Generating Facilities, then any such default shall be deemed remedied if a Mortgagee (a) within one hundred twenty (120) days of receiving notice from the State Land Board as set forth in Section 23. acquires possession of all or part of the Solar Power Generating Facilities, or begins appropriate judicial or non-judicial proceedings to obtain the same; (b) diligently prosecutes any such proceedings to completion; and (c) after gaining possession of all or part of the Solar Power Generating Facilities performs all other obligations as and when the same are due in accordance with the terms of this Lease provided, however, that upon obtaining possession the Mortgagee shall have a one hundred twenty (120) day cure period in the event of prior default of Lessee and further provided that (i) such cure period may be extended with the express written consent of the State Land Board or  
(ii) may be extended for the amount of time reasonably necessary, as determined by the State Land Board, to cure such default provided efforts to cure such default are initiated within one hundred twenty (120) days and are thereafter continued until cure has been effected.

## **18. MORTGAGEE PROTECTION**

Any Mortgagee, upon delivery to the State Land Board of notice of its name and address, for so long as Mortgagee's Mortgage is in existence shall be entitled to the following protections which shall be in addition to those granted elsewhere in this agreement:

- A. Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Mortgagee shall have the absolute right to: (a) assign its Mortgage; (b) enforce its lien and acquire title to all or any portion of the Solar Power Generating Facilities by lawful means; (c) take possession of and operate all or any portion of the Solar Power Generating Facilities and to perform all obligations to be performed by Lessee under this Lease, or to cause a receiver to be appointed to do so; and (d) acquire all or any portion of the Solar Power Generating Facilities by foreclosure or by an assignment in lieu of foreclosure and thereafter, assign or transfer all or any portion of the Solar Power Facilities to a third party. Notwithstanding the foregoing, any right by the Mortgagee to assign or transfer any portion of the solar power facilities to a third party shall be subject to Section 15 of this lease.
- B. Opportunity to Cure.
  - 1) During any period of possession of the Leased Premises by a Mortgagee (or a receiver requested by

Mortgagee) or while any foreclosure proceedings instituted by a Mortgagee are pending, the Mortgagee shall pay or cause to be paid the fees and all other monetary charges payable by Lessee under this Lease which have accrued and are unpaid at the commencement of the period and those which accrue thereafter during the period. Following acquisition of all or a portion of the Solar Power Facilities by the Mortgagee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this agreement shall continue in full force and effect and the Mortgagee or party acquiring title to this Lease shall, as promptly as reasonably possible, commence the cure of all defaults under this Lease and thereafter diligently process such cure to completion, whereupon the State Land Board's right to terminate this agreement based upon such defaults shall be deemed waived.

- 2) Any Mortgagee or other party who acquires Lessee's interest in the Solar Power Generating Facilities and this Lease pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform these obligations imposed on Lessee by this Lease incurred or accruing after the party no longer has ownership in possession of the Solar Power Generating Facilities or leasehold interest in this Lease.
- 3) Neither the bankruptcy nor the insolvency of Lessee shall be grounds for terminating this Lease as long as all payments and fees and all other monetary charges payable by Lessee under this Lease are paid by Mortgagee in accordance with the terms of this Lease.

C. New Lease.

- 1) If this Lease terminates because of Lessee's default, or if this Lease is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditor's rights and, within ninety (90) days after such event, Lessee or any Mortgagee, or Assignee shall have arranged to the reasonable satisfaction of the State Land Board for the payment of all fees and other charges due and payable by Lessee as of the date of such event and has cured any other defaults or damages under the Lease, then the State Land Board shall execute and deliver to Lessee or such Mortgagee or Assignee or to a designee of one of these parties, as the case may be, a new lease covering the Leased Premises which (a) shall be for a term equal to the remainder of the Term before giving effect to such rejection or termination; (b) shall contain the same covenants, agreements, terms, provisions, and limitations as this Lease (except for any requirements that have been fulfilled by Lessee or any Mortgagee or assignee prior to rejection or termination of this Lease); and (c) shall enjoy the same priority as this Lease over any lien, encumbrance, or other interest created by the State Land Board; and (d) shall include that portion of the Solar Power Generating Facilities in which Lessee or Mortgagee or Assignee had an interest on the date of rejection or termination.
- 2) After the termination, rejection, or disaffirmation of this Lease and during the period thereafter during which any Mortgagee shall be entitled to enter into a new lease for the Leased Premises, the State Land Board will not terminate the rights of any Assignee unless in default under its assignment and after the provision of all required notices and the expiration of all applicable cure periods.
- 3) If more than one Mortgagee makes a written request for a new lease pursuant to this provision, the new lease shall be delivered to the Mortgagee requesting such new lease whose Mortgage is prior in lien and the written request of any other Mortgagee whose lien is subordinate shall be void and of no further force or effect.
- 4) The provisions of this Section shall survive the termination, rejection, or disaffirmation of this Lease and shall continue in full force and effect thereafter to the same extent as if this Section

was a separate and independent contract made by the State Land Board, Lessee, and each Mortgagee, and, from the effective date of such termination, rejection, or disaffirmation of this Lease to the date of execution and delivery of a new lease, such Mortgagee may use and enjoy the Leased Premises without hindrance by the State Land Board or any person claiming by, through, or under the State Land Board, provided that all of the conditions for a new lease as set forth above are complied with.

- D. Limitations. Nothing in this Section shall limit the obligations of Lessee under this Lease or the rights of the State Land Board under this Lease to seek remedies or damages against Lessee, including but not limited to, non-curable defaults; provided, however, this paragraph shall not be interpreted to affect the Parties notice obligations and cur rights under this Lease.
- E. Mortgagee's Consent to Amendment, Termination, or Surrender. Notwithstanding any provision of this Lease to the contrary, the Parties agree that so long as there exists an unpaid Mortgagee, and the State Land Board has been informed of the existence of such unpaid Mortgagee by certified mail, this Lease shall not be modified or amended, and the State Land Board shall not accept a surrender, cancellation, or release of all or any part of the Solar Power Generating Facilities from Lessee, prior to expiration of the Lease Term without prior written consent of Mortgagee. This provision is for the express benefit of and shall be enforceable by each Mortgagee as if it were a party named in this Lease.
- F. Further Amendments. At Lessee's request, the State Land Board may amend this Lease to include any provision which may reasonably be requested by a proposed Mortgagee, provided however, that such amendment does not impair any of the State Land Board's rights under this Lease or substantially increase the burdens or obligations of the State Land Board under this Lease. Upon request of any Mortgagee, the State Land Board shall execute any additional instruments reasonably required to evidence such Mortgagee's rights under this Lease.

## **19. ANCILLARY AGREEMENTS**

No assignment of undivided interests or retention or reservation of overriding interests will be recognized or approved by the State Land Board; and the effect, if any, of any such assignments or reservations will be strictly and only as between the parties thereto, and outside the terms of this Lease, and no dispute between parties to any such assignment or reservation shall operate to relieve Lessee from performance of any terms or conditions hereof or to postpone the time therefore. The State Land Board shall at all times be entitled to look solely to Lessee or its assignee shown on the State Land Board's books as being the sole lessee hereof, and for the sending of all notices required by this Lease and for the performance of all terms and conditions hereof.

## **20. REPORTS AND RECORDS**

Lessee shall keep true, accurate and complete books, records, accounts, contracts and data sufficient to support and verify the calculation of all amounts due under this Lease. The State Land Board shall have the right at all reasonable times and upon reasonable notice, to inspect the books, accounts, contracts, records, and any other relevant data, in the possession or control of Lessee and pertaining to the production, transportation or sale of electricity produced from the Leased Premises or the Project Area, including, without limitation, statements, documents, records or other data, from third parties which verify price, value or quantity of electricity generated on the Leased Premises or the Project Area. Books and records relating to payments as herein described shall be retained by Lessee and made available in Colorado to the State Land Board for a period of not less than five (5) years. If any such examination shall reveal, or if either Lessee or the State Land Board shall discover, any error or inaccuracy in its own or the other's statement, payment, calculation, or determination, then proper adjustment or correction thereof shall be made as promptly as

practicable thereafter.

Without limiting the foregoing, no more than once a year and upon thirty (30) days notice to Lessee, Lessee shall provide the State Land Board with information that enables the State Land Board to confirm that all amounts payable under this Lease have been properly paid since the last time any such information was provided to the State Land Board.

Lessee shall submit, if reasonably required by the State Land Board, such additional reports, records, or documents regarding Lessee's operations on the Leased Premises or on adjoining properties as necessary for the purpose of determining compliance with Lease provisions including lease documents covering operations on adjoining properties which documentation shall be held confidential for the term of this Lease plus five (5) years to the extent allowed pursuant to the Colorado Open Records Act, Section 24-72-201 et seq., C.R.S.

All payments by Lessee must be accompanied by information and documentation that properly identifies the payment, including but not limited to the lease number, type of payment (Production Payment, Bonus Payment, Easement, etc.), the time period to which the payment applies, and additional information adequate for the State Land Board to identify and determine the nature of the payment and how the payment was calculated. Lessee must complete and submit the State Land Board's Solar Energy Production Report form in conjunction with all Production Payment payments. Lessee agrees to pay a fee as per the State Land Boards current publicized "Fees and Payment Considerations", per each occurrence for all unidentified payments or payments that do not include information and documentation as specified in this paragraph. The fee shall be calculated based on the State Land Boards current "Fees and Payment Considerations" schedule at the time the fee is imposed. "Fees and Payment Considerations" schedules, as adopted by the State Land Board, are effective immediately after approval. A current "Fees and Payment Considerations" schedule is available on-line through the State Land Board's official website and through any office of the State Land Board.

## **21. OPERATIONS**

- A. No more of the surface of the Leased Premises shall be disturbed than is reasonably necessary for the purpose for which this Lease is issued.
- B. Lessee shall be responsible for the control and eradication of noxious weeds on the Leased Premises insofar as the presence of such noxious weeds is the result of Lessee's actions. Lessee shall cooperate with other existing or future lessees or permittees to control and eradicate noxious weeds on the Leased Premises, including cost sharing in weed control and eradication for up to one year after this Lease is terminated. Said cost sharing will be at the sole discretion of the State Land Board.
- C. Lessee is to provide drainage and erosion control structures, fences, gates, cattle guards, or any other facilities reasonably necessary to protect the Leased Premises.
- D. Excavations and improvements shall be maintained in a safe condition to prevent injury to persons, livestock, and wildlife.
- E. All operations of the Lessee shall be conducted in a workmanlike and reasonable manner, and all necessary precautions shall be taken to avoid damage to the Leased Premises. Any costs incurred by the State Land Board as a result of any unintended and unplanned damage done by Lessee to Leased Premises, native grass or timer, or state-owned improvements, shall be paid for by Lessee to the State Land Board.
- F. No refuse, waste, or litter of any kind shall be left on the Leased Premises by Lessee.
- G. No minerals of any kind, including but not limited to sand, gravel, or stone, found on the Leased Premises, shall be sold by the Lessee unless purchased from the State Land Board.
- H. Disturbing, dislodging, damaging, defacing, destroying, or removing historical archaeological,

paleontological, or cultural sites or artifacts is prohibited.

- I. Disturbing, dislodging, damaging, defacing, destroying, or removing any improvement, fixture, item, object or thing placed or located in, under or upon the Leased Premises, except the Solar Power Generating Facilities is prohibited. Lessee shall keep the Leased Premises and improvements in good order, condition, and repair, including without limitations, all repairs to the exterior or interior of the improvements and all repairs of a structural nature. All repairs shall be at the expense of Lessee, except repairs caused by the willful conduct of the State Land Board. The State Land Board shall not be obligated to make any repairs, replacements or renewals of any kind whatsoever.
- J. This Lease does not grant a right to enter State Trust Lands outside the Leased Premises to which there is no public access.
- K. Any uses or activities not within the scope of this Lease are not allowed unless prior written approval from the State Land Board is granted.
- L. There shall be no disposal of sewage, liquid, or solid waste on the Leased Premises by Lessee, unless approved by the State Land Board. Any project plans of Lessee that require disposal of sewage on the Leased Premises shall comply with applicable laws and regulations and be approved by the State Land Board prior to being filed with any Local Government or other entity.
- M. Storage of materials, product, equipment, or personal property that is not directly related to the Lessee's operations on the Leased Premises is prohibited.
- N. Any plans that Lessee submits to the Public Utility Commission or other permitting authority must be based on "Best Management Practices," outlined in **Exhibit E** attached hereto, and provide for reclamation, protection of waters, native grasses, and wildlife, as well as other environmental considerations.

## **22. OTHER STATE AGENCIES**

Instruments and documents required by other State agencies may satisfy certain requirements of this Lease. In the event that Lessee is required to file instruments and documents with other State agencies, such as the Public Utilities Commission and the Colorado Division of Parks and Wildlife, Lessee shall notify the State Land Board of said filing and the State Land Board reserves the right to request and obtain copies of such instruments and documents from Lessee.

## **23. NOTICES**

Any notice required to be given to Lessee or Mortgagee under the provisions of this Lease shall be sent by certified mail to the address set forth at the beginning of this Lease or to such other address as Lessee may indicate in writing to the State Land Board, and such service by mail shall be deemed sufficient and in full compliance with the terms of this Lease as of the date it is postmarked. Notice to the State Land Board shall be given in like manner, addressed to the Colorado State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, Colorado, 80203-2206, or to such other address as the State Land Board may indicate in writing to Lessee.

## **24. PROTECTION AGAINST SURFACE DAMAGE**

Lessee has the right to utilize as much of the surface of the Leased Premises as is reasonably necessary for solar energy development and production activities; however, Lessee shall be liable and agrees to pay the State Land Board or the State Land Board's surface lessee for damage to native grassland or crops lost or destroyed by Lessee. This obligation shall not be interpreted to create a third-party beneficiary rights in favor of such surface lessee.

Lessee shall provide a noxious weed management plan for disturbed areas which shall include the requirement that Lessee is responsible for the management and eradication of noxious weeds until the reseeding has been completely established.

In the case of native grassland damaged by Lessee, its employees, contractors and subcontractors during the performance of the Solar Power Generating Facilities removal obligations under this Lease, the damaged areas will be reseeded with grass seeds recommended either by the Natural Resources Conservation Service ("NRCS") office located in the County in which the Lease Premises is located, or the Colorado State University Extension Office ("CSU") located in the County in which the Leased Premises is located. Such reseeding shall occur at such time or times as recommended by NRCS or CSU, at no cost to the State Land Board, and reseeding shall continue until the damaged native grass area has been fully reseeded and reclaimed. Notwithstanding the foregoing, Lessee's obligation to continue reseeding shall expire five (5) years from the date of the complete or partial removal of physical material pertaining to the Solar Power Generating Facilities from the Leased Premises.

In the event of damage to or destruction of the Leased Premises or any part thereof, resulting from the Lessee's use, Lessee shall give or cause to be given to the State Land Board prompt notice of such occurrence and shall promptly proceed with due diligence to repair, restore, replace, or rebuild so as to make the condition of the Leased Premises reasonably similar to its condition as of the Effective Date, or restore the same to such modified plans as shall be previously approved in writing by the State Land Board. These obligations shall not terminate upon the termination or expiration of the Lease, but shall continue until all damage to the surface has been restored. During the Term, these obligations shall not apply to solar panel sites and roads used solely by and for the benefit of the project.

## **25. HAZARDOUS SUBSTANCES**

- A. Lessee shall not use, store, dispose of, or release on the Leased Premises or cause or permit to exist or be used, stored, disposed of, or released on the Leased Premises as a result of Lessee's operations, any Hazardous Substances, except in such quantities as may be required in its normal business operations and only if such use does not have an adverse impact on the State Land Board or the use of the Leased Premises by the State Land Board pursuant to the terms hereof and is in full compliance with all applicable laws. Lessee shall indemnify the State Land Board against liability and expense arising from any violation by Lessee of any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Substances on or under the Leased Premises. If any Hazardous Substances are required for construction, operation, maintenance and/or decommissioning of Lessee's improvements, Lessee shall provide to the State Land Board prior to construction of any improvements, and shall thereafter periodically update, a list of the Hazardous Substances required. Lessee shall only be able to store or use on the Leased Premises the Hazardous Substances named on the most recent list of Hazardous Substances provided to the State Land Board. Lessee shall not cause or permit any Release of a Hazardous Substance on, about, or beneath the Leased Premises, whether affecting surface water or groundwater, air, the surface or subsurface environment.
- B. The Lessee is also prohibited from storing any gasoline or other fuel on the Leased Premises without the State Land Board's prior written permission, except for gasoline or fuel in such quantities as are reasonably necessary for Lessee's operations as authorized by this Lease.
- C. The Lessee shall immediately notify the State Land Board of all spills, releases, inspections, correspondence, orders, citations, notices, fines, response and/or cleanup actions, and violation of laws, regulation or ordinance which affect the Leased Premises.

- D. Lessee shall be solely liable for all liability, damages, costs or claims, including attorneys' fees arising from or in connection with activities related to Hazardous Substances on the Leased Premises to the extent caused or permitted by the Lessee, or to the extent caused by Lessee's contractors, employees, invitees, or permittees which Lessee knew or should have reasonably known about, but excluding pre-existing environmental conditions or Hazardous Substances on or under the Leased Premises as of the Effective Date of this Lease, and hereby indemnifies the State Land Board against the same.
- E. In the event any unlawful Release of a Hazardous Substance to the environment occurs on, about or beneath the Leased Premises as a result of any act or omission of Lessee or any affiliates, contractors, consultants, agents, employees, officers or invitees of Lessee, Lessee shall promptly undertake all remedial measures required to clean up and abate or otherwise respond to the unlawful Release in accordance with applicable Environmental Laws at Lessee's sole cost, and Lessee shall, indemnify, defend, protect and hold the State Land Board harmless from and against any and all claims, losses, first and third party damages, liabilities and costs, including without limitation reasonable consultants' and attorneys' fees and costs, arising out of or relating to the presence of Hazardous Substances on or about the Leased Premises as a result of any act or omission of Lessee or Lessee's agents. Nothing in this Lease is intended to release any party from any liability it may have under the Comprehensive Environmental Response Compensation and Liability Act. These provisions shall survive termination or surrender of this Lease.
- F. "Hazardous Substances" shall mean any substance: (A) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, pollutant or contaminant under any federal, state or local laws, regulations or permits (the "Laws") and any amendments thereto, including, for example only and without limitation, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or (B) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including, for example only and without limitation, gasoline, diesel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.
- G. "Environmental Laws" shall mean all present and future Laws, permits, licenses, approvals, authorizations and other requirements of any kind applicable to Hazardous Materials.
- H. "Release" shall mean any accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, migrating, dumping or disposing into the air, land, surface water, ground water or the environment.
- I. Lessee shall use Best Management Practices, as set forth in Exhibit E of this Lease, when using oils or molten salts in any concentrating solar power system.

## **26. ENVIRONMENTAL ANALYSIS**

Prior to any construction on the Leased Premises, Lessee must perform environmental analyses that are required by any state or federal agency or regulation, including proposed mitigation to any impacts, and submit such analyses to the State Land Board for review. Upon the request of the State Land Board, Lessee shall provide a summary of information obtained by such analyses, in presentation format, to the State Land Board. The Lessee shall abide by all measures designed to mitigate the environmental impacts of its operations under this Lease set forth by local, state, or federal agencies or any environmental studies required to be completed prior to the consideration and approval of exploratory and developmental activities. Lessee further agrees to implement the Best Management Practices set forth in Exhibit E of this

Lease. Lessee will keep the State Land Board updated from time to time upon request of the State Land Board regarding Lessee's efforts to work cooperatively with and resolve issues and concerns raised by the Colorado Division of Parks and Wildlife.

## **27. RECLAMATION**

- A. Intermediate Reclamation. Upon the completion of the construction of the Solar Power Generating Facilities, all Leased Premises disturbed by Lessee, its agents, contractors, and/or employees, and not required for continuing operations of the Solar Power Generating Facilities, including areas directly under the solar panels, shall be restored to a condition and forage density reasonably similar to its original condition and forage density, consistent with the continued use of the Leased Premises pursuant to this Lease. Reclamation shall include, as reasonably required and to the extent caused by the operations of Lessee under this Lease, leveling, terracing, seeding, revegetation, mulching and other reasonably necessary steps to prevent soil erosion, to ensure the establishment of suitable grasses and forbs, and to control noxious weeds and pests.
- B. Final Reclamation. Upon the expiration or termination of this Lease, Lessee shall commence, within six months, and then thereafter diligently prosecute to satisfactorily accomplish each of the following items:
  - 1) Remove from the Leased Premises all above-ground and below-ground Solar Power Generating Facilities, equipment, and other personal property in a manner that minimizes injury to the Leased Premises, including, without limitation to:
    - a) removal and disposal in a lawful manner of all concrete footings, foundations, and other fixtures to a depth of not less than four (4) feet below the surface grade;
  - 2) Reclaim and surrender the Leased Premises in a condition at least as good as the condition in existence on the Effective Date, including, without limitation:
    - a) filling in of all excavations;
    - b) reseeding any disturbed soil surface with suitable flora and restoring the terrain and soil surface to as close as reasonably practicable to their original condition;
    - c) restoring all Leased Premises disturbed by Lessee, or any permitted sublessees or assignees to a condition and forage density reasonably similar to its original condition and forage density, consistent with the uses permitted by this Lease;
    - d) returning the surface to the original contour as nearly as practicable; and
    - e) completing, as reasonably required, all leveling, terracing, seeding, mulching, and other reasonably necessary steps to prevent soil erosion, to ensure the establishment of suitable grasses and forbs, and to control noxious weeds and pests, as approved by the State Land Board's district manager.

Upon the request of the State Land Board, Lessee shall provide the State Land Board with copies of any plans for restoration and reclamation which are required to be submitted to the County or other governmental entity. If Lessee fails to remove from the Leased Premises the Solar Power Generating Facilities, equipment, or any other personal property within eighteen (18) months from the termination or expiration of this Lease, the State Land Board may do so, in which case Lessee shall reimburse the State Land Board for all reasonable costs of removal and restoration incurred by the State Land Board. Lessee agrees and acknowledges that in the event it fails to remove the Solar Power Generating Facilities and any other Lessee installed improvements, equipment, or personal property from the Leased Premises within eighteen (18) months from the termination or expiration of this Lease, then, at sole discretion of the State Land

Board, Lessee shall forfeit ownership of the Solar Power Generating Facilities and any other Lessee installed improvements, equipment, and personal property, in which case Lessee shall not be entitled to any portion of the proceeds the State Land Board may realize from the sale of such Solar Power Generating Facilities, improvements, equipment, or personal property. After termination of this Lease, and as required for Lessee to satisfy its final reclamation and decommissioning obligations, Lessee shall have a right of access to the Leased Premises for the purpose of satisfying its final reclamation and decommissioning obligations, all within the period prescribed by this Lease.

## **28. APPROVALS**

When approval or consent by one of the parties is required or contemplated by this Lease, such approval or consent must be in writing and shall not be unreasonably withheld, conditioned or delayed.

## **29. STATE LAND BOARD'S DISCRETION**

Whenever the State Land Board's approval, consent or authorization is sought by the Lessee under this Lease, the State Land Board may withhold such approval, consent or authorization in its sole and absolute discretion and shall not be unreasonably withheld, conditioned or delayed.

## **30. EXISTING LEASES**

If this lease is issued subject to any existing leases, Lessee's use of the Leased Premises is subordinate to and must be compatible with the rights and privileges granted to the existing lessees and must not interfere with such rights. No oil and gas reserves are to be stranded by Lessee's use of the surface and Lessee is prohibited from taking an assignment of the oil and gas lease.

If applicable, Lessee must have in place a surface use agreement with the State Land Board's oil and gas lessee prior to installing any Solar Power Facilities on the Leased Premises. Any surface use agreement or similar agreement between Lessee and the State Land Board's oil and gas lessee must be approved in writing by the State Land Board.

## **31. BOND (\$25,000 base plus additional \$25,000 per megawatt)**

The Lessee shall execute a bond (or other sureties as may be approved by the State Land Board) at the time this Lease is executed by the parties, in the amount of **forty one thousand two hundred twenty five and 00/100 dollars (\$41,225)**. The State Land Board reserves the right to grant relief from or increase the foregoing bond requirements. The State Land Board may require the bond to be held in full force and effect for up to two (2) years after cessation of operations for which the bond was intended. The bond amount will be reviewed every five (5) years and increased as necessary. Should the 5-year review indicate an increase is warranted in response to increased costs for remediation activities covered by said bonds or due to increased rent, the bond amount may be increased proportionate to the rise in costs. The Bond can be used to satisfy any Lessee obligation under this Lease, including but not limited to, payments owed under the Lease, the removal of all Lessee Improvements, and reclamation as required in Section 27.

## **32. GOVERNMENTAL IMMUNITY**

Liability for claims or injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act, C.R.S. § 24-10-101 et seq., and the risk management statutes, C.R.S. § 24- 30-1501 et seq., as amended. No term or condition of this Lease will be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Governmental Immunity Act as applicable now or hereafter amended.

## **33. INDEMNIFICATION**

Lessee assumes all liability arising from the use, occupation or control of the Leased Premises by Lessee under this Lease. This assumption includes, but is not limited to, liability for all personal injuries (including death) and environmental and property damage and destruction. Lessee agrees to defend, indemnify and hold harmless the State Land Board from and against any and all liabilities, losses, damages, liens, expenses, claims, demands, debts, obligations, fines, penalties, suits or actions, judgments, and costs of any kind whatsoever arising from the use, occupation or control of the Leased Premises, caused by any act, omission or neglect of Lessee, or Lessee's employees, agents, guests, invitees, contractors or assigns. Lessee further agrees to indemnify the State Land Board for any costs, including costs of suit and fees for consultants, experts, and attorneys, incurred by the State Land Board in terminating or canceling, enforcing obligations or defending itself against any matter arising under this Lease caused or permitted by Lessee or Lessee's employees, agents, guests, invitees, contractors or assigns. This provision shall survive termination, cancellation or relinquishment of this Lease and any cause of action by the State Land Board to enforce it shall not be deemed to accrue until the State Land Board's actual discovery of said liability, claim, loss, damage, or exposure. This indemnity is in addition to any other indemnity provided for in this Lease. Lessee will not be responsible for any liability caused by persons granted other uses of the Leased Premises by the State Land Board.

#### **34. INSURANCE**

Lessee, at its sole cost and expense, shall during the entire term of this Lease procure, pay for and keep in full force and effect an occurrence based general liability insurance policy from an insurance carrier licensed to do business in Colorado, in an amount not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate before the Installation Date, and three million dollars (\$3,000,000) per occurrence and six million dollars (\$6,000,000) aggregate thereafter, whichever is greater. Lessee, at its sole cost and expense, shall during the entire term of this Lease procure, pay for and keep in full force and effect a property insurance policy from an insurance carrier licensed to do business in Colorado covering all insurable improvements owned by the State Land Board located on the Premises in an amount not less than necessary to cover the replacement cost. All policies shall name the State Land Board as an additional insured, shall provide that the coverage is primary and noncontributory over any other insurance coverage available to the State Land Board, its agents and employees and shall include a clause waiving all rights of recovery, under subrogation or otherwise against the State Land Board, its agents and employees. Failure to buy and maintain the required insurance is a default of this Lease. Before starting work under this Lease, Lessee shall, at the State Land Board's request, furnish a certificate of liability insurance, referencing the lease number and reflecting the above requirements. The State Land Board may alter any requirements of this section to meet the requirements of the Colorado Governmental Immunity Act or any requirements determined by the Colorado Office of Risk Management.

#### **35. LIENS AND CLAIMS**

Lessee shall not suffer or permit to be enforced against the Leased Premises, or any part thereof, or any improvements thereon, any liens arising from, or any claim for damage growing out of the work of any Lessee requested work or any Lessee-related construction, repair, restoration, replacement, or improvement, or any like claims or demand howsoever the same may arise. Lessee shall pay or cause to be paid all of said liens, claims, or demands before any action is brought to enforce the same against the Leased Premises or improvements. Lessee agrees to defend, indemnify, and hold the State Land Board and the Leased Premises free and harmless from all liability for any and all such liens, claims, demands, and actions together with reasonable attorney fees and all costs and expenses in connection therewith.

Lessee shall, upon commencing construction of any improvements or facilities, prepare a Notice, pursuant to

C.R.S. §38-22-105 and cause the same to be posted for the purpose of protecting the State Land Board against any liens or encumbrances upon the Leased Premises by reason of work, labor, services, or materials contracted for or supplied to Lessee.

### **36. SURRENDER AND RELINQUISHMENT**

Lessee may, at any time, by paying to Lessor all amounts due for the entire term as per Section 7 of this Lease, surrender and cancel this Lease by providing 30 days written notice.

This surrender clause and option herein reserved to Lessee shall cease and become absolutely inoperative immediately and concurrently with the institution of any suit in any court of law by Lessee, the State Land Board or any assignee of either to enforce this Lease, or any of its terms, express or implied, but in no case shall surrender be effective until Lessee shall have made complete restoration, reclamation and protection of the surface rights of the Leased Premises as may be determined by the State Land Board in accord with the terms of this Lease. However, as long as there exists an unpaid Mortgagee, the Lessee shall not seek surrender, cancellation, or release this Lease without obtaining prior written consent from Mortgagee.

Notwithstanding the foregoing, no surrender and relinquishment of this Lease shall be effective unless and until all reports, documents, and information of any kind required to be submitted to the State Land Board under this Lease (e.g. reports, documents, and information required by the State Land Board for the purpose of calculating amounts due from Lessee to the State Land Board under this Lease), or to such state agencies as provided in this Lease, have been submitted to the State Land Board or such state agency. Lessee's surrender and relinquishment shall not release or excuse Lessee from any liability: (i) for known or unknown waste or damage to the leasehold, including environmental damage which arose from, or in connection with Lessee's use or occupancy of the Leased Premises; (ii) to the State Land Board, including all Rent and Production Payments owed, as per Section 7 of this Lease, including future payments; (iii) from the obligation to maintain improvements; or (iv) from any other requirement of this Lease that by its nature is intended to survive the termination of this Lease.

### **37. HOLDING OVER**

Lessee agrees to surrender possession and occupancy of the Leased Premises peaceably at the termination of the Lease (by expiration or otherwise). If Lessee remains in possession or makes use of the Leased Premises in any way after the termination of this Lease, Lessee will be liable for damages in a minimum amount based on a pro-rated amount of the last year's rental during such holdover possession. The amount of damages will not be less than the rate agreed upon in this Lease, and the State Land Board may set damages that Lessee must be pay during continued occupancy. At the State Land Board's option, the Lessee will be deemed to be in possession of the Leased Premises and to be occupying the same so long as Lessee uses the Leased Premises, or so long as any of Lessee's authorized or unauthorized improvements or personal effects remain on the Leased Premises. Continued occupancy will be a tenancy at sufferance, and will not establish a new or extended lease term or other right, no matter how long maintained and regardless of the State Land Board's knowledge thereof.

### **38. CONDEMNATION**

If the entire Leased Premises shall be taken by a third party in any condemnation proceeding, this Lease shall automatically terminate as of the date of taking. The award for such condemnation shall be paid to the State Land Board, except for any specific award(s) paid to Lessee for its Solar Power Generating Facilities. If only a portion of the Leased Premises is taken by condemnation, Lessee may, at its option, terminate this Lease or terminate only that portion of the Lease so taken.

### **39. STATE LAND BOARD POLICIES, DIRECTIVES, AND SCHEDULES**

This Lease incorporates and Lessee must comply with all applicable policies, directives and schedules, as

adopted by the State Land Board as of the Effective Date. Such policies, directives and schedules are available on-line through the State Land Board's official website and through any office of the State Land Board. Lessee is responsible to stay fully informed of all applicable policies, directives and schedules. Lack of actual notice or knowledge of applicable policies, directives and schedules will not provide a defense for any failure to comply. Lessee acknowledges that the State Land Board meets publicly on a monthly basis and at such public meetings may amend or change existing policies, directives and schedules and/or adopt new policies, directives and schedules.

#### **40. BOARD'S AUTHORITY**

This Lease is entered into pursuant to the authority granted to the State Land Board by Colorado law.

#### **41. COMPLIANCE WITH LAW**

Lessee shall comply with all applicable federal, state or local laws, rules, regulations, permits, codes and ordinances, including without limitation to all federal, state and local environmental, health, safety laws, rules, regulations, permits, codes and ordinances, and Lessee further agrees that competent operational methods shall be used at all times so long as said methods are consistent within the law.

#### **42. RESERVATIONS TO THE STATE LAND BOARD**

The State Land Board hereby reserves:

##### **A. Access.**

- 1) The right to access, inspect, and monitor the Leased Premises at all reasonable times by the State Land Board, its employees, agents, lessees, licensees, permittees, contractors or assigns. Lessee hereby grants to the State Land Board, its employees, agents, or contractors a non-revocable license for access on, over, across or through Lessee's other lands during the term of this Lease for access to the Leased Premises.
- 2) The State Land Board may access, inspect, and monitor the Leased Premises utilizing all reasonable means and methods, including but not limited to gate counters, game cameras, and Unmanned Aerial Systems (UAS). The use of UAS will be in accordance with applicable Federal Aviation Administration (FAA) rules and regulations. Lessee will cooperate and not interfere with all reasonable means and methods of access, inspection and monitoring including taking actions necessary to comply with FAA rules and regulations.

##### **B. Additional Uses.**

- 1) Minerals: The right to lease all or any portion of the Leased Premises to other persons for the purposes of exploring, producing, mining, extracting, removing all minerals or minerals resources as defined in C.R.S. §§36-1-100.3 and 125 and geothermal resources described in C.R.S. §36-1-147. Any new leases, after the effective date, must be compatible with the rights and privileges granted to Lessee herein.
- 2) Rights-of-Ways: The right at any time to grant a right-of-way upon, over, under, through, or across all or any part of the Leased Premises for any ditch, reservoir, railroad, communication system, electric power line, pipeline, schoolhouse, or other lawful purpose. Such subsequent grants after the effective date must be compatible with the rights and privileges granted to Lessee herein, and shall be subordinate to the rights of Lessee. Any such subsequent grant of easement or right-of-way upon, over, or across the Leased Premises shall include provisions requiring that any and all damages caused to any structures or Lessee Improvements placed upon the surface of the Leased Premises subsequent to the date hereof shall be repaired by and at the expense of the party to

whom the easement or right-of-way was granted.

Together with reasonable and adequate rights of access and surface rights necessary for the convenient exercise of the above reserved rights.

- C. Disposition. The right to sell, exchange, or otherwise dispose of all or any portion of the Leased Premises during the term of this Lease subject to the requirements of C.R.S. §36-1-118 (4a)(b) and subject to the this Lease.
- D. Reversion. The right to reversion of all interests in the Leased Premises upon termination of this lease.
- E. Water Rights. The State Land Board reserves title to all water rights associated or appurtenant to the Premises. In addition, no water, ditch, reservoir, well, spring, seepage or other right, permit, or use of any kind ("Water Right") may be initiated, established, appropriated or adjudicated (for use on or off the Premises) by Lessee without the prior written approval of the Board. All applications and documents pertaining to any such Water Right must be made in the name of the Board, and the Board reserves the right to make or convert any related applications or documents in or to its own name. Any such Water Right, approved or unapproved is the sole and absolute Property of the Board without cost to the Board.
- F. Historical, Prehistorical, and Archeological Resources. Title to all historical, prehistorical, and archaeological resources in all lands, rivers, lakes, reservoirs, and other areas owned by the state. Historical, prehistorical, and archaeological resources include all deposits, structures, or objects which provide information pertaining to the historical or prehistorical culture of people within the boundaries of the state of Colorado, as well as fossils and other remains of animals, plants, insects, and other objects of natural history within such boundaries, and in addition to the specific site or deposit, rights-of-way access on state-owned land from a maintained public road for the exploration, protection, preservation, interpretation, and enhancement of the site or deposit proper.
- G. Other. The State Land Board reserves all rights and privileges of every kind and nature not specifically granted to lessee by this Lease.

#### **43. DEFAULT AND FORFEITURE**

Subject to the rights of Mortgagee pursuant to Sections 18 of this Lease, the occurrence of any one of the following shall constitute a default and breach of this Lease by Lessee. Notices given under this Section shall specify the alleged default and the applicable Lease provisions, and shall demand that Lessee perform the provisions of this Lease or make payment that is in arrears, as the case may be, within the applicable time period. The occurrence of any of the following shall constitute a default and breach of this Lease by Lessee:

- A. Failure to Pay Rent. Any failure of Lessee to pay rent or any other required payments, where the failure continues for a period of thirty (30) days after written notice from the State Land Board to Lessee. Such notice shall not be deemed to be the notice required under Section 23; the State Land Board must separately provide such notice.
- B. Failure to Observe Other Provisions. A failure by Lessee to observe or perform any other material provision of this Lease to be observed or performed by Lessee (excluding those not susceptible of cure), where the failure continues for ninety (90) days after written notice by the State Land Board to Lessee. However, if the nature of Lessee's default is such that it cannot reasonably be cured within the ninety (90) day period, Lessee shall not be in default if Lessee commences the cure within the ninety (90) day period and thereafter diligently prosecutes the cure to completion.

C. Other Events of Default. Lessee will be in default if Lessee becomes insolvent or makes any fraudulent transfer against the State Land Board's interest, makes an Assignment without the State Land Board's approval (excluding any assignment authorized by this Lease), abandons the Project, or if a receiver or trustee is appointed for the Lessee.

The State Land Board's rights and remedies, including those not specifically described, shall be cumulative, and the State Land Board may pursue any or all of such rights and remedies, at the same time or separately. Upon the occurrence of a default, the State Land Board shall have the right to terminate this Lease subject to the notice obligations and cure rights set forth in this Lease and to enter onto the Leased Premises or any part thereof, either with or without process of law, and to expel, remove, and put out Lessee or any person occupying the Leased Premises, using such force as may be necessary to do so. In the event of the termination of this Lease by reason of default, Lessee shall surrender and peaceably deliver to the State Land Board the Leased Premises in accordance with the requirements of this Lease. In the event of a default, the State Land Board shall be entitled to recover from Lessee the unpaid fees, rent, Annual Production Payments, royalties, penalties and interest which have accrued up until the time of termination together with interest, and, any other amount necessary to compensate the State Land Board for the Lessee's failure to perform its obligations under this Lease, including, but not limited to the cost of recovering possession of the Leased Premises, the costs of removal of any facilities or temporary improvements; the costs of necessary repairs, renovations, and alterations of the Leased Premises, including the costs to restore the surface to its original condition; reasonable attorney's fees; and any other reasonable costs caused by Lessee's default.

If, upon termination of this Lease for any reason, whether by surrender, forfeiture, or expiration of Term or otherwise, Lessee does not fully comply with the removal and restoration obligations of this Lease, the State Land Board shall hold and retain possession of the Leased Premises, Solar Power Generating Facilities, improvements, equipment and personal property of Lessee as security unto the State Land Board for payment obligations due it, or to protect it against liens, or to indemnify it against any loss or damage sustained by it by reason of the default of Lessee, for which purpose the State Land Board is hereby given a lien upon all such Solar Power Generating Facilities, improvements, and equipment, and personal property which lien shall attach as the same are placed upon the Leased Premises. In the event the State Land Board shall foreclose the lien in this article given to it by Lessee, the State Land Board may itself be a purchaser at any sale thereof under such foreclosure.

Upon the termination of this lease for any cause, if Lessee shall remain in possession of the Leased Premises beyond the period required for removal and restoration, as set forth herein, Lessee shall be guilty of an unlawful detainer under the statutes in such case made and provided, and shall be subject to all the conditions and provisions thereof and to eviction and removal, forcibly or otherwise, with or without process of law, as above provided. The reasonable rental of the Leased Premises during the period of the unlawful detainer shall be two

(2) times the current payments to be made by the Lessee under this Lease.

Nothing in this section relieves Lessee of any responsibility for the final restoration and reclamation of the Leased Premises pursuant to the terms of this Lease.

#### **44. TERMINATION**

Upon termination, surrender or cancellation of this Lease, Lessee must pay all rental amounts accrued as well as any accrued penalty and interest, must immediately vacate the Leased Premises, must remove all improvements and restore the Leased Premises as directed by State Land Board and required under this Lease.

#### **45. CONDITION OF TERMINATION**

At the termination of this Lease at the end of the Lease term or for any other reason, Lessee must surrender and deliver the Leased Premises in as substantially good order and condition as it existed at the beginning of this Lease, except loss by fire, inevitable accident, act of God, damage or neglect not attributable to the Lessee, and ordinary wear and tear. Any personal property remaining upon the Leased Premises after final reclamation in accordance with Section 27.B shall be deemed abandoned. At the State Land Board's option, abandoned personal property may be removed and/or disposed of by the State Land Board at the Lessee's expense, retained by the State Land Board for use by subsequent lessees, sold by the State Land Board with all proceeds going to the State Land Board. The State Land Board may seek reimbursement from the Lessee for all costs associated with removal or disposal of any abandoned personal property. This right to recover costs shall remain in effect after the termination or expiration of this Lease.

#### **46. HEIRS AND SUCCESSORS IN INTEREST**

This Lease and all easements and rights granted herein shall burden the property comprising the Leased Premises and shall run with said property. The benefits, terms, and obligations of this Lease shall extend to and be binding upon the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

#### **47. HUNTING**

Under no circumstances shall Lessee or any of Lessee's invitees, agents, or contractors hunt on the Leased Premises. The State Land Board expressly reserves the right to hunt or to allow its invitees and licensees to hunt on the Leased Premises, so long as such hunting is done in a safe manner and does not interfere with Lessee's use of the Leased Premises, damage any Solar Power Generating Facilities, or endanger or injure any of Lessee's personnel, business invitees, agents, contractors, or property belonging to Lessee, Lessee's invitees, agents, or contractors. If the State Land Board authorizes any such hunting, the State Land Board shall indemnify Lessee from any such interference, damage, or injury caused by hunting authorized by the State Land Board, but not otherwise. Notwithstanding the foregoing, the State Land Board shall not permit any hunting during periods when Lessee's or Lessee's contractors' construction personnel are present on the Leased Premises during construction, decommissioning, or repair of Solar Power Generating Facilities. Such prohibition shall apply to the State Land Board and its employees, invitees, and licensees, and the State Land Board shall include such prohibition in all agreements granting hunting rights on the Leased Premises. The provisions of this Section shall survive termination of this Lease.

#### **48. GENERAL PROVISIONS**

- A. Historical, Prehistorical, and Archaeological Resources. Under no circumstances may any person destroy, disturb, mar, collect, remove or alter any historical, prehistorical, or archaeological resources of any kind on state lands as provided by law. In the event of discovery of anything of any historical, prehistorical, or archaeological nature, the Lessee must notify the State Land Board immediately.
- B. Captions and Headings. The captions and headings in this Lease are for convenience of reference only, and must not be used to interpret, define, or limit its provisions.
- C. Representation. This Lease is a legal document with binding obligations. Lessee has had the opportunity to engage legal counsel to review this Lease.
- D. Construction Against the Drafter. In the event of an ambiguity in this Lease the rule of construction that ambiguities will be construed against the drafter does not apply and the Parties hereto will be treated as equals and no Party will be treated with favor or disfavor.
- E. Counterparts. This Lease may be executed in multiple identical original counterparts, all of which constitute one agreement. Signatures may be delivered by facsimile or email copy. Electronic or

facsimile signatures will be binding on the parties as if they were originals.

- F. Entire Agreement. This Lease and all documents incorporated herein by reference represent the entire agreement between the parties hereto. No oral agreement or implied covenant shall be held to vary the provisions hereof.
- G. Extinguishment and Replacement. This Lease extinguishes and replaces any prior leases between the Parties related to the Leased Premises upon the Effective Date of this Lease.
- H. Insolvency of Lessee. If the Lessee becomes insolvent, bankrupt, or has a receiver appointed, the State Land Board may terminate this Lease. Insolvency as used in this Lease will mean the inability of the Lessee to meet obligations as they come due.
- I. Jurisdiction and Venue. The exclusive jurisdiction for all suits, actions, or proceedings related to this Lease will be in the State of Colorado and the exclusive venue will be in the City and County of Denver.
- J. Modification.
  - 1) By the Parties: Modifications of this Lease are not effective unless agreed to in writing and signed by both Parties in an amendment to this Lease that is properly executed and approved in accordance with applicable Colorado State law. No waiver, modification, amendment, discharge or change of this Lease will be valid unless the same is in writing and signed by the State Land Board. The staff of the State Land Board does not have authority, actual or apparent, to waive, modify, amend, discharge or change any provision of this Lease, except in writing and explicitly authorized by statute, board order or board policy.
  - 2) By Operation of Law: This Lease is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification will be incorporated into and be part of this Lease automatically on the effective date of such change.
- K. Notification of State Land Board Meetings. The State Land Board meets monthly with meeting agendas posted on the State Land Board's official website. Meetings are open to the public. All parties are granted an opportunity to speak during the open comment period of each meeting.
- L. Severability. If any term or provision of this Lease proves to be invalid, unenforceable, void, or illegal, the remainder of this Lease will not be affected thereby, and will be valid and be enforced as written.
- M. Survival of Terms, Conditions, Restrictions, Reservations, and Covenants. Any term, condition, restriction, reservation or covenant that gives rise to any rights or claims of the State Land Board against Lessee shall be deemed to survive the Termination, relinquishment, or abandonment of this Lease until all claims have been settled or resolved.
- N. Third Party Beneficiaries. Enforcement of this Lease and all rights and obligations under this Lease are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Lease are incidental to the Lease, and do not create any rights for such third parties.
- O. False Statements. Any false certification or statement by the Lessee in the application, public disclosure statement or qualification of financial responsibility statement required to be submitted with the application for the Lease, or in any other document or report required to be submitted under this Lease, shall at the discretion of the State Land Board, result in termination of this Lease and an action for damages.
- P. Lessee's Authority. If the Lessee is an entity other than an individual, each individual executing this Lease on behalf of said entity represents and warrants that he or she is duly authorized to execute and

deliver this Lease on behalf of said entity and that this Lease is binding upon said entity in accordance with its terms. The Lessee shall deliver a certified copy of the appropriate document evidencing authorization for such execution.

- Q. Amendments. This Lease shall not be amended or ratified except by written document executed by the parties hereto.
- R. Time is of the Essence. Time is of the essence in the performance of this Lease. Unless the context clearly implies otherwise, each and every act to be performed or obligation to be fulfilled by the Lessee under this Lease shall be performed or fulfilled at the Lessee's sole cost and expense. Lessee's failure to perform any of its obligations under this Lease in a timely manner shall be a breach of this Lease.
- S. Waiver. Waiver of any breach of a term, provision, or requirement of this Lease or any right or remedy under this Lease, whether explicitly or by lack of enforcement, will not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement. No employee or agent of the State Land Board has the power, the right, or authority to orally waive any conditions, covenants or agreements of this Lease, and no waiver by the State Land Board of them shall be effective unless in writing. The acceptance of performance, rent, or any other sum owing by the State Land Board following a breach by the Lessee of any provision of this Lease, will not constitute a waiver of any right of the State Land Board with respect to such breach. The State Land Board will be deemed to have waived any right only if the State Land Board expressly does so in writing.
- T. Executed by the State Land Board. No failure by either party to exercise and no delay in exercising any right, power or privilege hereunder will operate as a waiver hereof, nor will any single or partial exercise of any right or privilege hereunder preclude further exercise of the same right or the exercise of any right hereunder.
- U. No Joint Venture - The State Land Board is not and will not be construed to be a partner, joint venturer or associate of Lessee in the conduct of the business of Lessee. the State Land Board shall not be liable for any debts incurred by Lessee in the conduct of Lessee's business.
- V. No Other Covenants, Representations, or Warranties. The parties make no covenants, representations, or warranties, except as expressly set forth in this Lease.
- W. Colorado Open Records Act ("CORA") Disclosure
  - To the extent not prohibited by federal law, this lease and the performance measures if any, are subject to release through CORA, C.R.S. § 24-72-200.0 et seq.

#### **49. ADDITIONAL CONDITIONS**

None

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Lessor and Lessee, by their signatures below, agree to the terms of this Lease:

**«NLENTITY»**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature \_\_\_\_\_  
  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_  
\_\_\_\_\_

STATE OF COLORADO BY THE  
STATE BOARD OF LAND COMMISSIONERS

By: \_\_\_\_\_  
**«NLSALESREP»**  
Real Estate Portfolio Agent  
Date: \_\_\_\_\_

(Seal)

SO **«NLTRANID»**

Revised DOL 20190610

EXHIBIT A  
SOLAR ENERGY PRODUCTION LEASE NO. **«NLTRANID»**

THE LEASED PREMISES

**«NLCUSTBODY\_HEIN\_REL\_ASSET\_CONT»**

Containing **«NLCUSTBODY\_HEIN\_TOTAL\_ACREAGE»** acres, more or less



EXHIBIT A  
Leased Premises-Legal Description  
Page 2 of 3

EXHIBIT A  
Leased Premises-Survey  
Page 3 of 3

EXHIBIT B  
Non-Exclusive Access and Interconnection Easement-Legal Description  
Page 1 of 2

EXHIBIT B  
Non-Exclusive Access and Interconnection Easement-Survey  
Page 2 of 2

**EXHIBIT C**  
Leases and Rights-of-way on Leased Premises

Leases and ROW: Current			
Lease No.	Type	Lessee	Description

EXHIBIT D  
Solar Rewards Community Reservation Letter Or Power Purchase Agreement

**EXHIBIT E**  
**Best Management Practices**

To ensure the responsible development of renewable energy on state trust land, the Colorado State Board of Land Commissioners (the "Board") requires renewable energy developers ("Lessee") to incorporate Best Management Practices into the development of proposed projects. The outcomes that the Board is interested in achieving include:

1. A clear understanding of existing conditions and the developer's plans to avoid/mitigate impacts to wildlife and other sensitive natural resources on Trust assets.
2. Review and input by local authorities and other applicable regulatory agencies at the appropriate time in the process.
3. Minimize conflicts with other Board lessees.
4. Appropriate and successful site restoration at the end of construction activity and again at the end of the project life.

**Requirements:**

1. Avoiding/Minimizing Impacts - In selecting sites for construction, the lessee will focus on options that avoid critical wildlife habitats, over the use of mitigation strategies.
2. Wildlife Protection - The lessee completed an Environmental Study, dated May 29, 2018 . The report identified several species that are considered Protected, Threatened and/or Endangered Species that may be in or near the project area. The lessee will work with Colorado Parks and Wildlife (CPW) and all other agencies with appropriate regulatory authority to develop specific plans to avoid, minimize or mitigate impacts to these and other noted special species and to mitigate potential impact to raptor nesting areas.

**Specific practices noted in the Resource Survey that should be adhered to include:**

- In the event there are siting or operational conflicts with the wildlife recommendations made by CPW or contained in these Best Management Practices, and the recommendations cannot be followed, lessee shall contact CPW to initiate further discussion between CPW, State Land Board staff and the lessee to identify appropriate mitigation measures.
- Coordinate with the County to determine noxious weed management requirements. Should management of List B and C noxious weed populations be required, the Lessee shall submit a Project Noxious Weed Management Plan detailing methods of integrated management and control within the Property.
- 3. Wildlife Study Protocols - The lessee will implement a plan to conduct appropriate wildlife studies and monitoring if required Colorado Department of Parks and Wildlife recommendations and protocols. Similar methods should be used for all required studies so that valid comparisons can be made over time. If requested, all research data (observed, written, recorded, GPS files, etc.) collected by the lessee or its consultants and contractors will be made available for Board review.
- 4. Stipulations and Conditions to Production Permits - Conditions and recommendations made in the local review and approval process will become required conditions of Board Production Lease approval and attached to leases as exhibits.
- 5. Construction and Operational Considerations - The lessee will prepare and submit to the Board an operations plan that generally describes the steps that will be taken to minimize operational impacts on the property and minimize conflicts with the operations of any other Board lessees on the property.
- 6. Reclamation and Decommissioning - The lessee will provide to the Board a long-term decommissioning and reclamation plan that describes the actions that will be taken when lessee decommissions any infrastructure included in the facility. Decommissioning plans should include timing to decommission individual or project wide infrastructure and plans to reclaim areas back to pre-construction conditions.