

OPTION AND LEASE AGREEMENT

This Option and Lease Agreement (“**Agreement**”), dated as of the date that this Agreement has been fully executed by both Lessee and Lessor as reflected on the signature page(s). (“**Effective Date**”), is entered into by and between, the City of Aurora, an Illinois home rule municipal corporation, (“**Lessor**”) and _____, a _____ (“**Lessee**”). Lessor and Lessee may be referred to hereto individually as a “**Party**,” or together, the “**Parties**.”

Recitals

A. Lessor owns certain real property located in Kane County, Illinois more particularly described on Exhibit A attached hereto, including, without limitation, easements, and rights in, over, under and through such property (the “**Property**”).

B. The Aurora Municipal Airport (the “**Airport**”) is located within close proximity to the Property.

C. Subject to further due diligence and achieving certain development milestones, Lessee is interested in constructing a solar photovoltaic electric generating facility designed to produce electricity and deliver such electricity to the electric interconnection point, including without limitation all of the following: installation equipment; generation facilities, including inverters, fuses, transformers, wiring and output breakers; facilities necessary to connect to the electric interconnection point; protective and associated equipment; battery energy storage facilities; and other improvement reasonably necessary for the construction, operation, monitoring and maintenance of the foregoing (the “**Improvements**” and collectively, the “**Generating Facility**”) on the Property.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is acknowledged, and intending to be legally bound hereby, Lessee and Lessor hereby agree as follows:

1. Defined Terms and Incorporation of Recitals. The Parties hereby incorporate the Recitals set forth above in full as a part of this Agreement. Capitalized terms shall have the meanings set forth herein.

2. Grant of Option Right.

2.1. Lessor hereby grants to Lessee the exclusive right and option to lease all of the Property and acquire the Easements (as defined below) (the “**Option**”) on the terms and conditions in this Agreement. If any Finance Party requires Lessee to obtain an easement to cross any areas of Lessor’s retained access areas, Lessor shall grant said easement at no additional cost to Lessee. Outside of the currently existing Airport facilities and operations, Lessor shall grant or permit no license, easement, option, leasehold, or other right in or affecting the Property or any right related thereto, nor undertake or permit any third party to undertake any activities on the Property without Lessee’s written consent, which consent shall be granted unless Lessee reasonably believes such activities shall materially affect the operations of the

Generating Facility. By executing this Agreement, Lessor acknowledges that (a) Lessor, with consent of the City Council as set forth in Section 33, has the full power and authority to enter into and perform its obligations under this Agreement and (b) Lessor holds fee simple title to the Property and is the sole owner of the Property.

2.2. Within fifteen (15) days following the Effective Date, Lessor shall make available to Lessee documentation reasonably evidencing the authority of Lessor (and the person executing this Agreement on behalf of Lessor) to enter into this Agreement, and copies of all leases, contracts, studies, reports, maps, surveys, litigation documentation, correspondence and any other materials which Lessor knows to be in Lessor's possession or reasonable control and knows to be material to evaluating the Property, including, without limitation, the following documents (collectively, "**Property Documents**"): (a) any and all leases, licenses or other documents referencing a right to occupy, farm or mine the Property; (b) copies of documents creating liens against the Property; (c) all soils, seismic, environmental and toxics studies, reports, surveys and assessments, and all documents, correspondence, applications, permits and other communications to or from any government agency in connection with any Hazardous Materials (as hereinafter defined) or any environmental condition of the Property, including any underground storage tanks; (d) title reports, title policies and copies of title exceptions; and (e) information regarding water rights and existing wells. Provided Lessee complies with the provisions of Section 2.3, Lessor hereby grants Lessee the right during the Option Term (defined below) to conduct such investigations, examinations, inspections and review of the Property including, without limitation: (a) reviewing the condition of title, any lease or sublease affecting the Property, and any contract or other commitment with respect to the Property; (b) tax and appraisal issues; (c) preliminary construction issues; (d) conducting studies of solar radiation, solar energy and other meteorological data (e) conducting soils tests and studies, environmental, endangered/threatened species and archaeological assessments and surveys; (f) investigating and pursuing land use, permitting and energy development regulatory matters; and (g) performing drilling, excavation and other geotechnical activities in and under the Property (including its soils, subsurface and improvements), all of the foregoing as Lessee shall deem appropriate or desirable (collectively, the "**Investigations**"). Lessee shall indemnify, defend, and hold Lessor harmless with respect to any injury to any person, damage to the Property, and damage to the property of others that may arise as a result of any conduct related to the Investigations by Lessee or its agents. Lessee and its agents shall not conduct any invasive environmental Investigations until both (i) Lessor has been first provided with reasonably acceptable certificates of insurance from the contractors retained to conduct Investigations, and (ii) Lessor has provided its written approval, not to be unreasonably withheld, conditioned or delayed. Lessee shall use commercially reasonable efforts to minimize the impact of any invasive environmental Investigations on the Airport's facilities and operations. At the conclusion of its Investigations, Lessee shall, at Lessee's cost, restore the Property to its condition existing prior to Lessee's investigation. This provision shall survive the termination or expiration of this Agreement.

2.3. Upon written notice to Lessor given at least ten (10) days in advance, Lessee shall have the right, at its sole risk, to enter the Property to conduct Investigations at reasonable times; provided that Lessee shall (a) at Lessor's option, be accompanied by a representative of Lessor at all times, (b) abide by all Airport rules and other rules communicated to the Lessee, and (c) not interfere with the operations of the Airport. Additionally, Lessee shall coordinate all access to the Property with the Lessor, and both Parties shall cooperate and use commercially reasonable efforts to ensure such access does not disrupt or interfere with the operation of the Airport.

2.4. Notwithstanding Lessor's grant of the Option to Lessee, until Lessee sends an Exercise Notice (defined below) or otherwise notifies Lessor that construction will commence during a farming season, Lessor may continue to occupy or lease the Property for agricultural use, provided the term of any such lease shall be no more than one year. During such time Lessee will make commercially reasonable efforts not to interfere with Owner's agricultural activities on the Property.

3. Option Term. The term of the Option (the "**Option Term**") shall commence on the Effective Date and shall continue until 11:59 P.M. on the day three (3) years following the Effective Date, unless earlier terminated or exercised in accordance with the terms hereof. Lessee may terminate the Agreement for any reason during the Option Term, without penalty or payment or further liability, by written notice from Lessee to Lessor. During the Option Term, Lessee shall provide reasonable advance written notice to Lessor prior to any drilling or excavation and Lessor shall have the right to observe, subject to any reasonable safety measures imposed by Lessee or its contractor, such activities. If the Option has not been exercised prior to the end of the Option Term, this Agreement shall automatically terminate. Upon the exercise of the Option, the expiration of the Option Period, or any time at which Lessee determines it will not exercise the Option, Lessee shall, without representation or warranty as to accuracy or completeness, and subject to redaction to protect Lessee's confidential and commercially sensitive information, deliver to Lessor due diligence materials relating to the Property including but not limited to surveys, wetland delineations, topographic studies or survey, drainage maps or studies, and engineering reports, but only if said due diligence materials are first offered by Lessee and their receipt is agreed to by Lessor.

4. Consideration for Option. In consideration of the Option, Lessee shall pay to Lessor Five Thousand Dollars (\$5,000.00) on or before the date ten (10) days following the date City Council grants the written approval set forth in Section 33 (the "**Independent Consideration**"). Thereafter, Lessee shall pay an additional option payment in the amount of Five Thousand Dollars (\$5,000.00) (the "**Option Payment**") on each anniversary of the Effective Date. Lessee may terminate this Agreement and the Option in its sole discretion at any time during the Option Term by written notice to Lessor, and shall have no obligation to pay any Option Payment that would otherwise be due after the date of such termination, provided that Lessee shall timely pay to Lessor any unpaid Option Payments, if any, that became due prior to the date of the termination by Lessee. Notwithstanding anything herein to the contrary, the Independent Consideration shall be fully

earned when paid and shall be non-refundable in all events. For avoidance of doubt, payments shall be due as follows:

<u>Payment Type</u>	<u>Amount Due</u>	<u>Due Date</u>
Independent Consideration	\$5,000.00	Effective Date
1 st Option Payment	\$5,000.00	First Anniversary of Effective Date
2 nd Option Payment	\$5,000.00	Second Anniversary of Effective Date

5. Non-Disturbance Agreements. As soon as practicable following the Effective Date Lessor shall, at its sole effort and expense, use reasonable efforts to obtain a non-disturbance agreement (“**NDA**”) in favor of Lessee from any third party who now has an interest in the Property or the Leased Lands, including without limitation, any lenders to Lessor, in a form attached as Exhibit C. Additionally, prior to granting an interest in the Property to any third-party in the future, Lessor shall use reasonable efforts to obtain an NDA in favor of Lessee.

6. Exercise of Option; Lease. Lessee may exercise the Option as to the Property at any time during the Option Term by delivering to Lessor a notice of exercise (the “**Exercise Notice**”). The Exercise Notice shall identify (with a legal description, plat or survey) the Property as to which Lessee is exercising the Option, the locations of any Easements (as defined below) and shall specify the date for commencement of the Primary Lease Term (the “**Lease Commencement Date**”), which shall be within thirty (30) days of the date of the Exercise Notice. Subject to receipt of the Exercise Notice, Lessor hereby leases and grants to Lessee, for the Lease Term (as defined below), the exclusive rights to the Leased Lands together with all right, title and interest of Lessor in and to all easements, rights, privileges and appurtenances to the same belonging or in any way appertaining thereto, to occupy, develop, design, engineer, construct, access, monitor, install, own, operate and maintain the Generating Facility for the generation, storage and distribution of electrical power.

7. Lease Term and Termination; Removal.

7.1. The term of the Lease shall begin on the Lease Commencement Date and continue for thirty-five (35) years from the Commercial Operations Date (the “**Primary Lease Term**”), unless earlier terminated as set forth herein. Lessee may terminate the Lease and this Agreement at any time during the Development Period (as defined below) in its sole discretion for any reason. Such termination shall be effective upon Lessee sending written notice thereof to Lessor, or at such other date identified in the notice. Lessee may, at its sole option, extend the Lease Term for an addition five (5) year period (the “**Extension Term**”). The Extension Term and the Primary Lease Term shall be referred to collectively herein as the “**Lease Term.**” The Extension Term, if exercised by Lessee, shall commence on the day following the expiration of the Primary Lease Term and continue until the date that is five (5) years after the first day of such Extension Term. Grantee may exercise its right to the Extension Terms by giving written notice to Lessor at least thirty (30) days prior to the last day of the Primary Lease Term. The terms and conditions set forth in this Agreement (including all payment amounts) shall remain in effect during the Extension Term.

7.2. If this Agreement expires or is terminated, Lessee shall decommission and remove the Generating Facility and any ancillary structures, including but not limited to access roads, staging areas, maintenance yards, construction debris, transformers, and components and repair any damage caused to the Leased Lands by the installation or removal of the Generating Facility or any ancillary structures, at Lessee's sole expense. Lessor agrees that unless Lessor desires to keep any of the Leased Lands as they are at the end of the Term, Lessee's obligations in this paragraph include removal of all improvements constituting the Generating Facility and repair of any damage caused to the Leased Lands by Lessee, including, but not limited to, removal of any foundations or other structures embedded up to five feet (5') beneath the surface of the Leased Lands and an obligation to regrade the Leased Lands to the original contour of the Leased Lands, removal of all stormwater collection storage and drainage to the extent permitted by law, and removal of all fencing and landscape buffers. Lessee shall complete its removal obligations as set forth herein at its sole cost and expense on or before the date that is six (6) months after the termination or expiration of this Agreement, and Lessor shall continue to provide Lessee and its contractors with reasonable access to the Leased Lands related to the removal obligations during such period. If Lessee fails to complete its removal obligations within such period, Lessee shall be deemed to have abandoned the remaining portion of the Generating Facility and Lessor shall have the right, in its sole discretion, to complete removal thereof in accordance with this paragraph, in which case Lessee shall reimburse Lessor for the actual costs and expenses of removal and restoration incurred by Lessor. Lessee shall continue to pay Operating Period Rent (defined below) until the Generating Facility is decommissioned and the removal obligations have been fully completed in accordance with this Section.

7.3. Surrender. Upon any termination, surrender, or expiration of this Agreement, Lessee shall remove all of Lessee's Improvements unless otherwise requested in writing by Lessor as provided in §7.2, and shall peaceably deliver up to Lessor possession of the Leased Lands, and other rights granted by this Agreement, and shall execute, at Lessor's request, any and all documents needed to record or evidence such termination with the appropriate governmental agency. Beginning on the Lease Commencement Date and continuing through the term of the Lease, Lessee shall remain in possession of the entire Property and shall not abandon all or any portion of the Property, and Lessee shall continue to perform the obligations provided in this agreement including but not limited to, maintaining the entire Property, insuring the entire property, and paying property taxes on the entire Property.

7.4. Restoration. Within six (6) months after any termination, surrender, or expiration of this Agreement (the "**Decommissioning Period**"), Lessee at its sole cost and expense, shall decommission the Generating Facility and applicable Improvements, in accordance with Section 7.2. Lessee shall restore the Property to the condition substantially similar to that as it existed at the inception of this Agreement and shall repair any damage to the Property as a result of any removal of Lessee's Improvements ("**Restoration**"). Restoration shall include the repair of any underground or above ground drainage structures or systems to a condition substantially similar to that as it existed at the inception of this Agreement. As part

of Restoration, Lessee shall take reasonable steps to ensure that topsoil is replaced on the surface of the Property and not subsoil.

7.5. Prior to commencing construction of the Generating Facility, Lessee shall: (a) have prepared by an independent professional engineer, a detailed cost estimate identifying the costs to fully decommission the Generating Facility and return the Property to the condition required by this Section 7 and the AIMA (as defined in Section 34 below) and provide a copy of such estimate to Lessor; (b) post a bond or other financial security, in a form and with a surety or insurer that is commercially reasonable with Lessor identified as a beneficiary thereof, in an amount as required by the AIMA (the “**Financial Assurance**”). The primary purpose of the bond or Financial Assurance shall be to secure Lessee’s Restoration obligations in the amount of the decommissioning cost estimate, and (c) provide evidence of such Financial Assurance in writing to Lessor. Lessee shall maintain such Financial Assurance in full force and effect throughout the Lease Term and until Lessee’s Restoration obligation is complete and has been accepted by Lessor and acknowledged in writing as provided in §7.5(c)(ii). The terms and conditions of decommissioning process and Financial Assurance are further provided as follows:

7.5.1 The county, municipality, or Lessor may, but is not required to, reevaluate the estimated costs of Restoration after the tenth anniversary, and every five years thereafter, of the Operations Period Commencement Date. Based on any reevaluation, the county, municipality, or Lessor may require changes in the level of Financial Assurance used to calculate the phased Financial Assurance levels described above required from the Lessee to the extent the estimated costs of Restoration have changed from the original estimate. If Lessee fails to timely complete its Restoration obligations, then Lessor may take all appropriate actions for decommissioning including drawing upon the Financial Assurance.

7.5.2 Lessor shall be provided notice of the completion of the Restoration prior to the release of the Financial Assurance and Lessee’s obligations hereunder. During that thirty-day (30) period following Lessor’s receipt of notice of completion of Restoration, Lessor shall have the opportunity to inspect the Property to confirm in writing that all Restoration requirements have been met.

7.5.3 If the terms of the AIMA are contrary to anything in this Section 7.5, the stricter terms between this Section 7.5 and the AIMA shall control. For clarity, this Agreement requires Financial Assurance to be posted in an amount greater and earlier than required by the AIMA, and such terms in this Agreement shall govern over the less strict terms of the AIMA.

7.6. Surety Bond. Within thirty (30) days following the Commercial Operations Date, Lessee shall provide Lessor a surety bond in the amount of Ninety Thousand Dollars (\$90,000.00) (the “**Security Deposit**”) as security for the performance of the provisions hereof by Lessee. If Lessee defaults with respect to the provisions of this Agreement relating to the payment of rent or other sums due hereunder beyond applicable notice and cure periods, Lessor may, but shall not be

required to, use, apply or retain all or any part of the Security Deposit for the payment of any rent or any other sum in default.

8. Base Rent and Payment Terms for Rent. During the Lease Term, Lessee shall pay rent to Lessor (the “**Rent**”) at the times and in the amounts set forth below:

8.1. Development Period. During the period (the “**Development Period**”) from the Lease Commencement Date until the sooner of 365 days or the occurrence of the “commercial operations date” under the applicable power purchase agreement or offtake agreement entered into by Lessee for the Generating Facility (the “**Commercial Operations Date**”), Lessee shall pay to Lessor rent at an annual rate of Forty-Five Thousand Dollars (\$45,000.00), payable in equal monthly installments (the “**Development Period Rent**”) in advance on the first day of each calendar month during the Development Period. If the Lease Commencement Date is not the first day of a month, the Development Period Rent for the month in which the Lease Commencement Date occurs shall be apportioned according to the number of days in that month. Development Period Rent shall be pro-rated for the actual length of the Development Period.

8.2. Operating Period. Commencing on the expiration of the Development Period and continuing for the remainder of the Lease Term (the “**Operating Period**”), Lessee shall pay to Lessor at an annual rate of Ninety Thousand Dollars (\$90,000.00) (the “**Operating Period Rent**”), payable annually in advance on the Commercial Operations Date and each anniversary thereof. Commencing on the first anniversary of Commercial Operations Date and each anniversary of the Commercial Operations Date thereafter during the Lease Term, the Operating Period Rent shall increase by three percent (3%) of the most recently effective Operating Period Rent annually. The amount of Operating Period Rent for any partial year shall be prorated using a three-hundred sixty-five-day period for any partial year.

8.3. Form of Payment. All payments of Rent to Lessor shall be made either in the form of a certified check or money order payable to Lessor and delivered to Lessor at Lessor’s address for notices set forth herein, or by wire transfer of immediately available funds to the account designated by Lessor by written notice to Lessee, as directed by Lessor.

9. Generating Facility Activities.

9.1. In order to permit the installation and operation of the Generating Facility on the Leased Lands, at no cost or expense to Lessor, the Lessor shall agree to all reasonably necessary approvals for the Generating Facility, at the discretion of the Lessee; provided, Lessor shall not be required to agree to such approvals to the extent that Lessor reasonably believes such activities shall materially, negatively affect the existing operations of the Airport. Provided Lessee complies with the provisions of Section 9.2, Lessee will have the right to enter and occupy all of the portions of the Leased Lands as needed to install, operate to its

maximum efficiency, maintain, replace and have access to the Generating Facility; provided, (a) Lessee and Lessor shall reasonably cooperate to minimize interference with the existing operations of the Airport, and (b) no such activities shall materially, negatively affect the existing operations of the Airport. In addition, at no cost or expense to Lessor, Lessor shall agree to execute any documents and cooperate with Lessee in order for the Lessee to engage in the production, transmission, reception, processing, distribution, and sale of electricity, net metering credits and environmental attributes or switching of electricity through wires, cables, panels or other improvements on or within the Leased Lands (the “**Generating Facility Activities**”) and to assure that its occupancy of the Leased Lands is not materially disturbed for the duration of the Lease Term by Lessor or anyone acting on Lessor’s behalf, so long as Rent is paid and Lessee is not in default of this Lease or in violation of any law, regulation, or ordinance. Without limiting the foregoing, Lessor shall fully cooperate with the obtaining by Lessee, at Lessee’s sole expense, of all licenses, permits or authorizations required for Lessee’s use of the Leased Lands from all applicable government and/or regulatory entities (collectively, “**Governmental Approvals**”) and the securing by Lessee of any amendments to this Agreement that are reasonably necessary to accommodate the Generating Facility or to facilitate an assignment pursuant to Section 15.1. The term “Governmental Approvals,” as defined above, shall include all submissions, studies, and notices required to be made to the U.S. Federal Aviation Administration to permit the installation and operation of the Generating Facility. Lessor agrees and acknowledges that any amendment to the Agreement pursuant to this Section 9 that does not materially increase any obligation or materially decrease any right of Lessor hereunder shall not result in adjustment of the Rent unless otherwise required under this Agreement. Lessor authorizes Lessee and its Affiliates to reasonably act with the consent of Lessor as the owner of the Property for submission of applications and related plans, documents and recordings, and to appear before boards and other officials, with respect to obtaining approvals for the Generating Facility, and shall reasonably execute authorization letters to that effect.

9.2. Upon written notice to Lessor given at least ten (10) days in advance, Lessee shall have the right, at its sole risk, to enter the Property to conduct the Generating Facility Activities at reasonable times; provided that Lessee shall (a) at Lessor’s option, be accompanied by a representative of Lessor at all times, (b) abide by all Airport rules and other rules communicated to the Lessee, and (c) not interfere with the operations of the Airport. Additionally, Lessee shall coordinate all access to the Property with Lessor, and both Parties shall cooperate and use commercially reasonable efforts to ensure such access does not disrupt or interfere with the operation of the Airport.

10. Easements and Rights of Way. Subject to receipt of the Exercise Notice, Lessor hereby agrees to grant, as reasonably necessary for operation of the Generating Facility, to the applicable utility company, its employees, agents, representatives, contractors, subcontractors, invitees and utility providers, at no additional cost, the following easements (the “**Easements**”): (i) a non-exclusive, appurtenant easement on, over, under, across and through the Property for the Lease Term in the locations designated by Lessee in the Exercise Notice, to occupy, develop, design, engineer, construct, access, monitor, install, own, operate, maintain, repair, replace, improve and remove at all times, utility and communication infrastructure, including without limitation poles, supporting towers, guys and anchors, fibers, cables and other conductors and conduits, and pads, transformers, switches, vaults and cabinets, and related equipment to connect the Generating Facility to the local electric distribution system, together with the right of access to the utility infrastructure over the Property, for any purpose reasonably connected to the Generating Facility (the “**Transmission Easement**”), and (ii) at all times on a 24-hours-a-day, 7-days-a-week basis, for the Lease Term, an easement for ingress, egress and related rights over the Property, passage through which is necessary or convenient to install, operate or gain access to the Generating Facility or Leased Lands (the “**Utility Easement**”). If Lessee determines in its reasonable discretion that any additional easements across the Property are necessary, useful, or appropriate for the construction and operation of the Generating Facility, Lessor shall reasonably cooperate in granting or agreeing to such easements at no additional cost to Lessee. Upon Lessee’s request and the presentation of the written instruments, and at Lessee’s sole expense, Lessor shall deliver one or more signed and acknowledged written instruments in recordable form reasonably satisfactory to Lessor and Lessee documenting the Easements. Unless otherwise agreed to in writing, any Easements described in this Section shall terminate upon expiration of the Lease Term or earlier termination of this Lease.

11. Operation and Maintenance.

11.1. Provided Lessee complies with the provisions of Section 11.2, Lessee shall, during the Lease Term, have the right to perform (or cause to be performed), in accordance with all Applicable Law (defined below), all tasks necessary or appropriate, as determined by Lessee in its sole discretion, to carry out the activities set forth in this Agreement, including, without limiting the generality of the foregoing, the right: (i) to design, engineer, construct, install, inspect, test, operate, upgrade, repair, replace, improve and maintain the Generating Facility, (ii) to clean, repair, replace and dispose of all or a part of the Generating Facility as Lessee in its sole discretion determines to be necessary, (iii) to grade the Leased Lands as required, and install additional improvements for storm water collection, storage, or drainage, (iv) to permanently cut and remove or clear any trees, vegetation, structures, rocks, watercourses (to the extent permissible) or other encumbrances existing on the Leased Lands determined to be necessary by Lessee in its sole discretion and (v) to use any and all appropriate means of restricting access to a Generating Facility and Leased Lands, including without limitation, constructing fences. Lessee will comply with all required laws, rules and regulations including but not limited to any applicable conditional or special use permits regarding such designing, contracting, installing, operating, maintaining,

replacing, and upgrading the Generating Facility, including but not limited to compliance with any and all environmental, wildlife, health, safety, and energy generation laws, and Lessor shall, as reasonably necessary, cooperate with Lessee therewith, at Lessee's sole cost and expense. Except as may otherwise be specifically agreed upon by the Parties or as expressly set forth herein, Lessee shall be responsible for all costs of design, permitting, construction, installation, operation, maintenance, and removal of the Generating Facility. Lessee shall be responsible for repairing any drainage tiles damaged by Lessee's activities on the Leased Lands. Lessee may repair such drainage tile either 1) by utilizing a drainage contractor that has been approved by Lessor; or 2) by paying Lessor for such repair costs damages, in Lessor's sole discretion. Lessee shall endeavor to prioritize entering into subscriber agreements: (a) with minimum percentage savings of fifteen percent (15%) to subscribers, with the residents of the City of Aurora (the "**City**"), (b) with minimum percentage savings of fifty percent (50%) to subscribers, with low-income qualified residents of the City, and (c) with minimum percentage savings of fifteen percent (15%) to subscribers, with the City's facilities. Lessee shall construct, operate, and maintain the Generating Facility in such a manner that the Generating Facility shall be deemed "pollinator friendly" in accordance with and as defined in the Pollinator-Friendly Solar Site Act (525 ILCS 55).

11.2. Upon written notice to Lessor given at least ten (10) days in advance, Lessee shall have the right, at its sole risk, to enter the Property to conduct the activities set forth in Section 11.1 at reasonable times; provided that Lessee shall (a) at Lessor's option, be accompanied by a representative of Lessor at all times, (b) abide by all Airport rules and other rules communicated to the Lessee, and (c) not interfere with the operations of the Airport. Additionally, Lessee shall coordinate all access to the Property with Lessor, and both Parties shall cooperate and use commercially reasonable efforts to ensure such access does not disrupt or interfere with the operation of the Airport.

12. Taxes. Lessee shall pay when due all real property taxes on all of the Leased Lands applicable to the Lease Term, in addition to all sales, use, and other taxes or levies related to Lessee's use of the Leased Lands or the operation of the Generating Facility. Additionally, Lessee shall pay any transfer taxes assessed against the Leased Lands that result from the transactions contemplated herein.

13. Insurance and Indemnification.

13.1. Lessee shall, at its own expense, maintain a commercial general liability insurance policy in an amount not less than \$5,000,000.00 in combined single limit liability insurance coverage per occurrence, which coverage limit shall be reviewed and increased to correspond to market inflation every five years during the Lease Term, and shall name Lessor as an additional insured. Any contractor or

subcontractor engaged by Lessee and performing construction on the Leased Land shall maintain commercial general liability insurance and other coverage as required by law and standard in the region for similar contractors and shall name Lessor as an additional insured.

13.2. Lessee shall indemnify, defend and hold harmless the Lessor and its Affiliates and their employees, agents and contractors against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including reasonable attorneys' fees) in each case to the extent resulting from or arising out of physical injury or death to Persons (including employees of either Party) and/or physical damage to property and in each case arising out of or in connection with the negligent acts or omissions or willful misconduct of the indemnitor or material breach of any obligation, representation or warranty of the indemnity under this Agreement, except to the extent caused by the negligent acts or omissions or willful misconduct of the indemnified party.

13.3. Lessee shall not be responsible to Lessor or any third party for any claims, costs, or damages, including fines or penalties, attributable to any violations of Applicable Law, existing prior to the Effective Date, or by any party other than the Lessee Parties. This Section 13 shall survive termination or expiration of the Agreement.

14. Confidentiality. Subject to the Freedom of Information Act, Lessor and Lessee will treat the negotiations and matters related to this Agreement in strict confidence. All information related to this Agreement shall be disclosed by Lessor only on a need-to-know basis. Notwithstanding the foregoing, it is agreed and understood that Lessor shall be allowed to disclose negotiations and matters related to this Agreement to its advisors, attorneys, and tax preparers.

15. Assignment and Financing.

15.1. Assignment. Notwithstanding anything to the contrary, the Lessee may freely assign this Agreement to any Affiliate company or subsidiary company of Lessee, provided such Affiliate or subsidiary has substantially equivalent assets to Lessee and is at least as creditworthy as Lessee at the time of the Assignment, or any Financing Party (defined below). Other than such permitted assignment, Lessee may not assign this Lease to any entity or person that is not an Affiliate or subsidiary company of Lessee or a Financing Party without the written consent of Lessor. In the event of any assignment consented to by Lessor, the Lessee shall be released from all its liabilities and other obligations under the Lease. However, any assignment of Lessee's right and/or obligations under the Lease shall not result in any change to Lessor's rights and obligations under the Lease. Lessor may assign this Lease to the transferee when Lessor transfers the Property and may collaterally assign the rents hereunder. The Lease shall be binding on and inure to the benefit of the successors and permitted assignees.

15.2. Financing. The parties acknowledge that Lessee may obtain construction and long-term financing or other credit support from one or more

Financing Parties. Both parties agree in good faith to consider and to negotiate changes or additions to the Lease that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of the Lease. In connection with an assignment pursuant to Section 15.1, Lessor agrees to execute such consent, estoppel or acknowledgement in form and substance reasonably required by and reasonably acceptable to such Financing Parties.

15.3. Successor Servicing. The Parties further acknowledge that in connection with any construction or long-term financing or other credit support provided to Lessee or its Affiliates by Financing Parties, that such Financing Parties may require that Lessee or its Affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the Generating Facility and/or administrative services with respect to this Agreement (the “**Successor Provider**”). Lessor agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement, provided appointment of such Successor Provider shall not release Lessee from any liability hereunder.

16. Solar Generating Facility Construction; Lessor Acknowledgment. Lessor hereby acknowledges and agrees that the Generating Facility is personal property, whether or not the same is deemed real or personal property under Applicable Law and shall not attach to or be deemed a part of, or a fixture to, the Leased Lands or the Property. Lessee shall be the legal and beneficial Lessor of the Generating Facility at all times and Lessor shall have no right, title or interest in the Generating Facility or any component thereof, notwithstanding that any such Generating Facility may be physically mounted or adhered to the Leased Lands or Property. Prior to beginning construction of the Generating Facility Lessee shall provide to Lessor reasonably satisfactory evidence of its financial ability, whether through Financing Parties, investors, lenders, or other assets, to complete the construction based on Lessee’s estimated construction cost. Lessor covenants that it will use commercially reasonable efforts to place all parties having an interest in or lien upon the Property, if any, on notice of the ownership of the Generating Facility and the legal status or classification of the Generating Facility as personal property, which obligation may be satisfied by recording the memoranda described in Section 31 below and providing a copy to any lienholder. If there is any mortgage or fixture filing against the Property or Leased Lands which could reasonably be construed as attaching to the Generating Facility as a fixture of the Property or Leased Lands, Lessor shall provide a disclaimer or release from such lien holder. Lessor, as the fee Lessor of the Property, consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the Generating Facility as a fixture of the Property or Leased Lands in the office where real estate records are customarily filed in the jurisdiction of the Property. Further, Lessor acknowledges and agrees that Lessee is the exclusive owner of all electricity and all utility credits generated by the Generating Facility and owner of all environmental attributes and incentives attributable to the Generating Facility. Electricity generated by the Generating Facility will not be available to Lessor or any other occupant at the Property. Subject to the Freedom of Information Act, without the express consent of Lessee, Lessor shall not make or publish any public statement or notice regarding any environmental attribute or incentive relating to the Generating Facility or the electricity generated by the Generating Facility.

16.1. Development Activities. Throughout the Development Period, Lessee shall exercise commercially reasonable, diligent efforts to pursue the construction and development of the Generating Facility.

16.2. Project Schedule. Lessee shall use commercially reasonable, diligent efforts to meet the deadlines set forth on the project schedule (the “**Project Schedule**”) attached hereto as Exhibit E and incorporated herein. Lessee’s failure to meet the deadlines set forth on the Project Schedule shall not result in a Lessee Event of Default (defined below) nor shall it permit Lessor to terminate this Agreement or exercise any remedies hereunder. Additionally, throughout the Development Period, Lessee shall exercise commercially reasonable, diligent efforts to pursue the construction and development of the Generating Facility.

17. Authorization and Enforceability. Subject to final approval of the Lessor’s City Council as set forth in Section 33, each Party represents and warrants that the execution and delivery by such Party of, and the performance of its obligations under, this Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other Person, and do not contravene any provision of, or constitute a default under any material agreement binding on such Party or any valid order of any court, or regulatory agency or other body having authority to which such Party is subject. Each Party represents and warrants that this Agreement constitutes a legal and valid obligation of such Party, enforceable against it in accordance with its terms.

18. Representations, Warranties, and Covenants.

18.1. Lessor’s Title to Leased Lands. Lessor represents, warrants and covenants that Lessor has a good and, to Lessor’s knowledge insurable (at regular rates), fee simple interest in title to the Property, including the Leased Lands, and that Lessee shall have quiet and peaceful possession of the Leased Lands free from any claim of any entity or Person of superior title thereto without hindrance to or interference with or molestation of Lessee’s quiet enjoyment thereof, throughout the Lease Term. Lessor shall not sell, lease, assign, mortgage, pledge or otherwise alienate or encumber the Property unless Lessor shall have given Lessee at least thirty (30) days’ prior notice thereof, which notice shall identify the transferee, the area of the Property to be so transferred and the proposed date of transfer, and any such encumbrance shall be made expressly subject to Lessee’s rights under this Agreement and any Lease. Lessor agrees that this Agreement and the Lease and Easements granted in this Agreement shall run with the Property and survive any transfer of all or any portion of the Property. In furtherance of the foregoing, Lessor shall cause any purchaser, assignee, mortgagee, pledgee, secured party or party to whom a lien on the Leased Lands or Property has been granted to execute and deliver to Lessee a commercially reasonable document pursuant to which such party acknowledges and consents to the Lessee’s rights in the Property as set forth herein including, without limitation, an acknowledgement by the transferee that it has no interest in the Generating Facility, or any work related to such Generating Facility, and shall not gain any interest in the Generating Facility by virtue of the Lessor’s transfer.

18.2. No Interference with and Protection of Generating Facility. Lessor will not conduct activities on, in or about the Property that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the Generating Facility or operation thereof (including without limitation obstructing the uninterrupted flow of sunlight to the Generating Facility to any extent). Lessee acknowledges that the Property is located on or within close proximity of an airport and agrees that the normal, lawful operations of the airport shall not be deemed to violate this Section. The Generating Facility shall be operated, maintained and repaired by Lessee at its sole cost and expense; provided, that any reasonable repair or maintenance costs incurred by Lessee as a proximate result of Lessor's (or Lessor's Affiliate's) negligence, misconduct or breach of its obligations hereunder shall be promptly reimbursed to Lessee by Lessor upon written notice and presentment of reasonably satisfactory evidence of the costs incurred.

18.3. Insolation. Lessor acknowledges and agrees that access to sunlight ("Insolation") is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Agreement. Accordingly, Lessor shall not permit any interference on the Leased Lands with Insolation on the Leased Lands which interferes with Insolation on the Leased Lands. Without limiting the foregoing, Lessor shall not, on the Property or on any adjacent property owned by Lessor or any Affiliate of Lessor, construct or permit to be constructed any structure that could adversely affect Insolation levels, permit the growth of foliage that could adversely affect Insolation levels, or directly emit or permit the emission of suspended particulate matter, smoke, fog or steam or other airborne impediments to Insolation. Notwithstanding any other provision of this Agreement, the Parties agree that (i) Lessee would be irreparably harmed by a breach of the provisions of this Section 18.3, (ii) an award of damages might be inadequate to remedy such a breach, and (iii) in the event of such a breach, Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 18.3 and may also remove the breaching structure in the event Lessor fails to do so upon reasonable request.

18.4. Condition of Leased Lands. Except as expressly set forth in this Agreement, Lessor, its Affiliates, agents, and attorneys make no representation or warranty related to the condition of the Leased Lands, and Lessee does not rely upon such in making this Agreement.

18.5. Lessor Reservation of Mineral Rights, et al. Lessor reserves the right to develop the minerals, if any, owned by Owner or third parties on the Property so long as such development (including, without limitation, any drilling or mining) does not interfere with Lessee's use or planned use of the Property for Solar Energy Purposes. Lessor reserves the right to develop and or collect any carbon sequestration credits or compensation and enter into any such carbon sequestration projects including but not limited to geological carbon sequestration and biological carbon sequestration. Lessor reserves the wind rights which exist on the Property. Lessor reserves the right to any USDA or Illinois Department of Agriculture programs. It is agreed and understood by the parties that any such activity on the

part of Lessor or Lessor's assigns in developing such mineral rights, carbon credits, wind rights or USDA or Illinois Department of Agriculture programs are not allowed under this agreement if they interfere with Lessee's use or planned use of the Property for Solar Energy Purposes.

18.6. Notice of Damage or Emergency. Lessor and Lessee shall immediately notify the other if either becomes aware, through discovery or receipt of notice: (i) of any damage to or loss of the use of the Generating Facility; (ii) of any event or circumstance that poses an imminent risk to human health, the environment, the Generating Facility or the Leased Lands; or (iii) of any interruption or material alteration of the energy supply to or from the Leased Lands or the Generating Facility.

18.7. Liens and Tenants. Except as may be disclosed in the real property records of the County where the Property is located and outside of existing Airport operations, Lessor represents, to Lessor's knowledge, that there are no encumbrances, leases, mortgages, deeds of trust, deeds to secure debt, or similar liens or security interests encumbering all or any portion of the Property and/or the Leased Lands that could interfere with Lessee's operations on the Leased Lands, including mechanic's liens. Lessor and Lessee acknowledge and agree that mortgages are currently recorded against the Property and reflected in the real property records; Lessor shall obtain an NDA for such mortgagees in the form attached as Exhibit C. Lessor shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim on or with respect to the Generating Facility, or any interest therein. Lessor shall provide Lessee with notice if it receives notice of any such claims. Lessor further agrees to discharge or bond, at its sole expense, any such encumbrance or interest that attaches to or affects the Generating Facility or Lessee's conduct of business with respect thereto. Lessor waives any and all lien rights it may have, statutory or otherwise, concerning the Generating Facility or any portion thereof. Lessee shall keep the Property free and clear of all liens and claims of liens from labor and services performed on, and materials, supplies, or equipment furnished to, the Property in connection with Lessee's use of the Property and to indemnify, defend and hold harmless Lessor from any costs, losses, expenses or liabilities arising from the same, including, without limitation, Lessor's attorneys' fees and court costs. Lessee may contest any such lien and the legal validity and amount of any such lien; provided, however, that if Lessee elects to contest any such lien, Lessee shall, within sixty (60) days after it receives notice of the filing of such lien, either discharge, bond around such lien, or otherwise remove such lien from the Property pursuant to Applicable Law.

18.8. Security Interest in Generating Facility. Lessor has been advised that part of the collateral securing the financial arrangements for the Generating Facility may be the granting of a first priority perfected personal property security interest under the Uniform Commercial Code (the "**Security Interest**") in the Generating Facility to one or more Financing Parties and Lessor hereby consents to such Security Interest. In connection therewith, Lessor represents and warrants as follows, to Lessor's knowledge: (i) the granting of the Security Interest will not violate any term

or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Property or Leased Lands; and (ii) there is no existing lease, mortgage, security interest or other interest in or lien upon the Property or Leased Lands that could attach to the Generating Facility as an interest adverse to or senior to Lessee's Financing Parties' Security Interest therein, for which an NDA has not been obtained in accordance with the requirements of this Agreement. Further, Lessor agrees to execute, acknowledge, and deliver, and agrees to request that any and all of Lessor's lenders execute, acknowledge and deliver, such commercially reasonable subordination agreements, consents, estoppels and other acknowledgements of the foregoing as Lessee or the Financing Parties may reasonably request. Lessor further agrees to modify the terms of this Agreement as may be reasonably requested by such Financing Parties, provided such modification shall not impair or remove any of Lessor's rights otherwise granted in this Agreement. Lessor agrees that if requested by Lessee, Lessor will furnish the Financing Parties with a counterpart of each notice or other document delivered by Lessor to Lessee in connection with this Agreement.

18.9. Utilities. Lessee shall be solely responsible for any and all utilities to be provided to the Property and the payment of all related costs, fees, and expenses.

18.10. Hazardous Substances; Environmental Representations; Lessor Obligations and Representations. Lessor shall be responsible for and shall promptly conduct any investigation and remediation as required by any Applicable Law, of all spills or other releases of any Hazardous Substance not caused by Lessee or Lessee's agents, invitees, or assigns, that have occurred or which may occur on the Property during the term of this Agreement and after its expiration or earlier termination. Lessee shall indemnify, defend, and hold harmless all of the Lessor Parties from and against any and all damages, costs, expenses, assessments, penalties, fines, losses, judgments, and costs incurred by Lessor, and reasonable attorney fees, arising out of or relating to any Environmental Claims related to the Leased Property directly caused by Lessee or Lessee's agents, invitees, or assigns after the Lease Commencement Date. Lessor represents, warrants and covenants that, to the best of Lessor's knowledge (i) Lessor and the Property (including the Leased Lands) are, and during the past ten (10) years have been, in material compliance with Environmental Laws applicable to the Property; (ii) except with respect to matters that have been settled or resolved with no ongoing liabilities or obligations, Lessor has not received notice of (and has no knowledge of) any notice of any proceeding regarding any actual or alleged violation of, or liability under, Environmental Laws, or any investigatory, remedial or corrective obligations under Environmental Laws, in each case with respect to the Property, nor is any such proceeding threatened to Lessor's best knowledge; (iii) Lessor has not caused or permitted the release of Hazardous Substances at, on, about, under or from any of the Property which would reasonably expected to give rise to any liability under Environmental Laws; and (iv) there are no events, and there have been no events: (x) that would prevent continued compliance by Lessor and the Leased Lands with Environmental Laws and the requirements of any permits applicable to it or to Lessee, or (y) that would result in the liability of Lessor or Lessee under any applicable Environmental Laws. This Section 18.10 shall survive the termination or expiration of this Agreement.

18.11. Hazardous Substances; Environmental Representations; Lessee Obligations and Representations. Lessee shall be responsible for and shall promptly conduct any investigation and remediation as required by any Applicable Law, all spills or other releases of any Hazardous Substance directly caused by Lessee or Lessee's agents, invitees, or assigns, which may occur on the Property. In furtherance of the foregoing, Lessee shall indemnify, defend and hold harmless Lessor from and against any and all damages, costs, expenses, assessments, penalties, fines, losses, judgments, additional costs incurred by Lessor to the extent arising out of the release or spill of Hazardous Substances by Lessee or Lessee's agents, invitees, or assigns on the Property or any Environmental Claim caused by same. This Section 18.11 shall survive the termination or expiration of this Agreement.

18.12. Zoning. If Lessee changes the zoning on the Property to a designation that would not permit agricultural use or increases property taxes, then Lessee shall, prior to expiration or earlier termination of this Lease, return the zoning to the designation that existed on the Effective Date, and take all action reasonably necessary to cause the property taxes to be assessed based upon the prior zoning designation, all at Lessee's sole cost and expense.

19. Default.

19.1. Lessee shall be in default of this Agreement (a "**Lessee Event of Default**") if Lessee fails to fulfill any financial obligation or any other lease obligation by which Lessee is bound, and Lessee fails to cure such failure within thirty (30) Business Days after written notice of such failure is provided to Lessee by the Lessor. Upon the occurrence of a financial Lessee Event of Default, Lessor will charge default interest on unpaid amounts, at the prime rate plus 4%, as published by the Wall Street Journal. All sums of money and charges required to be paid by the Lessee under this Agreement shall be additional Rent. In the event a non-financial Lessee Event of Default cannot reasonably be cured within thirty (30) days and Tenant has commenced and diligently pursued to correct such default or failure, then Tenant shall have such additional period of time as may reasonably be required to cure such default or failure, but not exceeding one hundred and eight (180) days after the Lessor's notice of said failure. This right provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law, and Lessor shall have all rights and remedies that may be available to Lessor at law or in equity.

19.2. Lessor shall be in default of this Agreement (a "**Lessor Event of Default**") if Lessor (i) fails to fulfill any financial obligation or any other lease obligation by which Lessor is bound, and Lessor fails to cure such failure within thirty (30) Business Days after written notice of such failure is provided to Lessor by Lessee. Upon the occurrence of a Lessor Event of Default, Lessee shall (i) have the right to terminate this Agreement by giving written notice of termination to Lessor and (ii) subject to the limitations set forth herein, have all rights and remedies that may be available to Lessee at law or in equity.

20. Equitable Relief; No Consequential Damages. The Parties acknowledge that money damages may not be a sufficient remedy for any breach of this Agreement, and that, accordingly, in the event of any such breach or threatened breach, either Party shall be entitled to immediately seek any and all remedies available to it at law or in equity, including but not limited to an injunction or specific performance in the event that money damages is not a sufficient remedy, from a court of competent jurisdiction. Notwithstanding any other provision in this Agreement, neither Lessee nor Lessor shall be liable to the other for any consequential, punitive or indirect damages, including without limitation, loss of use of their property, loss of profits, cost of capital or increased operating costs, arising out of this Agreement whether by reason of contract, Lessee's indemnity, strict liability, negligence or breach of warranty.

21. Casualty; Fire. Lessee shall carry replacement cost casualty insurance and business interruption insurance and provide evidence of source to Lessor. Subject to Lessee's restoration obligations under Section 7, in the event the Generating Facility, the Leased Lands or access thereto shall be so damaged or destroyed by fire or other casualty so as to make the use of the Leased Lands impractical, as determined by Lessee with reasonable judgment, then Lessee may elect to terminate this Agreement upon notice to Lessor given no later than thirty (30) days after the date of the Casualty (defined below) and effective date of such Casualty and payment to Owner of a one-time Casualty termination fee in the amount of Twenty Five Thousand Dollars (\$25,000), which termination shall be without penalty or further liability, except Lessee shall fully restore the Property in accordance with Section 7 of the Lease and Rent will continued to be owed and paid until Lessee's Restoration obligations have been met. If Lessee does not elect to terminate this Agreement in the event of such Casualty, the Rent shall be abated to fifty percent (50%) of the rent per acre for the acreage affected by the Casualty at the time of the Casualty event until the earlier of (a) the date when the use of the Solar Energy System is restored or (b) six months following the Casualty event. If and only if Lessee is unable to rebuild all of the Solar Energy System, the portion of the Property on which the Solar Energy System cannot be rebuilt due to the Casualty (the "**Unbuildable Land**") shall be restored in accordance with Section 7 of the Lease to the extent reasonably possible, as determined by the Lessee in its reasonable judgement (and any of the Lessee's Improvements shall be removed). Additionally, if all or a portion of the Unbuildable Land (i) contains a minimum of ten contiguous acres and (ii) has access to a public road, then (a) the Lease shall be amended to remove that portion of the Unbuildable Land meeting the foregoing criteria set forth in (i) and (ii) from the definition of "Property", (b) possession of such land shall be returned to Lessor, and (c) Rent shall be recalculated by the parties in good faith based on the remaining acreage of the Property. For Purposes of the immediately preceding sentence and the Rent recalculation set forth therein, in no event shall the portion of the Property deemed to constitute Unbuildable Land be more than eighty (80) acres in total. For purposes of this section "Casualty" shall mean a serious or disastrous accident or act of god which occurs through no fault of Lessor or Lessee that could not have been foreseen or guarded against, including, without limitation fire, tornado, or earthquake, that causes over Two Million Five Hundred Thousand Dollars (\$2,500,000) in damage.

22. Notices. All notices under this Agreement shall be made in writing to the following addresses, as may be updated as provided herein.

Lessor:	City of Aurora
	44 E. Downer Place

Aurora, Illinois 60505
Attn: Law Department
Email: lawdept@aurora.il.us

With a copy to: City of Aurora
44 E. Downer Place
Aurora, Illinois 60505
Attn: Mayor's Office
Email:

Aurora Municipal Airport
43W636 US Route 30
Aurora, Illinois 60554
Attn: Airport Manager

Lessee: SunCode LLC
XJ Chen
1 Park Plaza Suite 600,
Irvine, CA 92614
chen.xj@suncodesolar.com

Notices shall be delivered by hand delivery, regular overnight delivery service, sent by registered or certified mail, return receipt requested, or email. Email notices shall require confirmation of receipt. Notices shall be deemed to have been received when delivered as shown on the records or manifest of such courier, delivery service or the U.S. Postal Service. Rejection or refusal to accept delivery of any notice shall be deemed to be the equivalent of receipt of any notice given hereunder. A Party may change its address by providing notice of the same in accordance with the provisions of this Section. Failure to comply strictly with the terms of this Section shall not be held against the Party claiming to have given notice so long as such Party substantially complied with this provision and can demonstrate that the notice in question was received.

23. No Waiver; Remedies; Headings. The waiver by either Party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein. No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law or in equity or by statute provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

24. Binding Effect. This Agreement and its rights, privileges, duties, and obligations shall bind and inure to the benefit of and be binding upon each of the Parties hereto, together with their respective heirs, personal representatives, successors and permitted assigns.

25. Counterparts. This Agreement may be executed in any number of counterparts, which shall together constitute one and the same agreement. Lessor and Lessee (a) intend to be bound by the signatures on any document sent by PDF, scanned copy, or electronic mail, (b) are aware that the other Party will rely on such signatures, and (c) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature.

26. Entire Agreement. This Agreement, including all Exhibits and Appendices, represents the full and complete agreement between the Parties hereto with respect to the subject matter contained herein and therein and supersede all prior written or oral negotiations, representations, communications, and agreements between said parties with respect to said subject matter. This Agreement may be amended only in writing signed by both Lessee and Lessor or their respective successors in interest. Lessor and Lessee each acknowledge that in executing this Agreement that party has not relied on any verbal or written understanding, promise, or representation which does not appear in this document.

27. Further Assurances. Upon the receipt of a request from the other Party, each Party shall execute such commercially reasonable additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof, including at the requesting Party's expense, entering into any consents, assignments, affidavits, estoppels and other documents as may be reasonably required by such Party's lender to create, perfect or preserve its collateral interest in such Party's property or such Party's rights and obligations under this Agreement.

28. Governing Law; Dispute Resolution. This Agreement shall be construed in accordance with the laws of the State of Illinois, without regard to its conflict of law principles. The sole and exclusive venue for any action related to this Agreement shall be the Circuit Court of Kane County, Illinois.

29. Force Majeure. Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply with the Agreement (other than the failure to pay amounts due hereunder, as stated in the final sentence of this paragraph), if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event as defined below in Section 35. Definitions; provided, that: (i) the Party affected by such Force Majeure Event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure Event, gives the other Party written notice reasonably describing the Force Majeure Event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure Event; and (iii) the Party affected by such Force Majeure Event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. Under no circumstance shall Lessee's obligation to timely pay Rent or any other amount due be extended or abated by any Force Majeure Event.

30. Confidentiality. Subject to the Freedom of Information Act, Lessor and Lessee each agree to use commercially reasonable efforts to keep confidential, and not publicly disclose, the terms of this Agreement and any information provided by Lessor to Lessee or by Lessee to Lessor in relation to the transaction contemplated hereby, including, without limitation, all information, test results, findings, and documents acquired by Lessee in its Investigations related to the

Property, and all copies of and records related to such information and documents shall be returned by Lessee and its agents to Lessor if Lessee does not deliver an Exercise Notice; provided, however, that either Party may disclose the existence and terms of this Agreement to: (a) its members, owners, partners, managers, consultants, agents, architects, independent contractors, or attorneys in connection with the execution of this Agreement and the transactions contemplated herein, (b) any bona fide potential purchaser, assignee, subtenant or lender of the Property, the Leased Lands, this Agreement or the Generating Facility who agrees to keep such information confidential, (c) to any Person that has a bona fide business necessity for such disclosure (e.g. in connection with the preparation of tax returns, in response to an acquirer's due diligence inquiries, in response to request for an estoppel certificate or similar instrument, etc.) who agrees to keep such information confidential, (d) any third party to whom both Parties hereto have given their prior written consent for such a disclosure, or (e) governmental authorities (including administrative, regulatory or judicial authorities) in the investigation of the compliance of the Leased Lands and/or the Generating Facility with applicable legal requirements; and provided, further, that the non-disclosure obligations contained in this Section 30 shall not apply to any such information that (i) is or becomes generally available to the public other than as a result of a disclosure by Lessee or Lessor, or their employees, agents or representatives, or (ii) Lessor or Lessee is compelled to disclose pursuant to any judicial, statutory or regulatory authority, including, without limitation, as may be required for evidence in a law suit regarding this Agreement, or (iii) the other party consents to disclosing pursuant to a specific request. The provisions of this Section shall survive the expiration of the Lease Term or earlier termination of this Agreement.

31. Notice of Lease. To the extent Lessee or Lessor requests, the other shall promptly execute, acknowledge, and deliver to the other a Memorandum of Option and Lease, either in form and content as set forth in Exhibit B, or, at Lessee's option in such other form and content as is reasonably satisfactory to Lessee and Lessor. Lessee or Lessor may record the memorandum and have same returned to Lessee or Lessee's attorney. In the event this Agreement is hereafter from time to time amended, modified or supplemented, then, at Lessee's or Lessor's request, Lessor and Lessee simultaneously shall execute, acknowledge and deliver to the other a mutually reasonably satisfactory memorandum of such amendment, together with such instruments as are then required for the recording of such memorandum, and Lessee or Lessor may thereupon record such memorandum, and have same returned to Lessee or Lessee's attorney. Lessor agrees to execute and deliver any other documents as may be reasonably necessary to record any of the foregoing. The party requesting the recording of the document shall pay the recording fees.

32. Brokers. Neither party is utilizing brokers for this Agreement.

33. Final Approval. The Parties expressly acknowledge and agree that this Option and Lease Agreement shall have no force nor effect until or unless it is approved by a resolution of the corporate authorities of the Lessor adopted during a duly convened meeting in accordance with Illinois law (referenced herein as the "consent" or "approval" of "City Council"). The Parties further expressly acknowledge and agree that in the absence of such approval, the signature of the Mayor upon this Option or Lease Agreement carries no legal effect whatsoever. Prior to approval by the corporate authorities of the Lessor, the parties may, by mutual agreement, may amend or supersede the terms of this Option and Lease Agreement.

34. AIMA. Lessee shall enter into an Agricultural Impact Mitigation Agreement (“AIMA”) with the Illinois Department of Agriculture (“DOA”) in a form substantially similar to the form attached as Exhibit D. Other than as specifically set forth herein, Lessee shall construct the Generating Facilities, and shall complete all required restoration, remediation, and decommissioning obligations, set forth above, and in accordance with the standards set forth in the AIMA. Except with respect to those provisions of the AIMA expressly modified pursuant to the terms of this Agreement, in the event the AIMA and this Agreement contradict, then the terms and conditions which are more favorable to Lessor and Lessor’s Property shall apply.

35. Definitions. The following terms are defined in this Agreement as follows:

35.1. “**Affiliate**” means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director, officer or member of such Person or an Affiliate of such Person.

35.2. “**Applicable Law**” means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, Environmental Law, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

35.3. “**Business Day**” means any day other than Saturday, Sunday, or any other day on which banking institutions in the state where the Property is located are required or authorized by Applicable Law to be closed for business.

35.4. “**Environmental Claims**” means any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability, including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that any Party may suffer or incur due to the existence of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment.

35.5. “**Environmental Law**” means and includes, without limitation, any present or future federal, state or local law, whether under common law, statute, rule, regulation or otherwise, requirements under Permits or other authorizations issued with respect thereto, and other orders, decrees, judgments, directive or other requirements of any Governmental Authority relating to or imposing liability or standards of conduct, disclosure or notification with regard to the protection of human health, the environment, ecological conditions, Hazardous Substances or any activity involving Hazardous Substances.

35.6. “**Financing Party**” means, as applicable, (i) any Person (or its agent) from or to whom Lessee (or an Affiliate of Lessee) leases the Generating Facility or

(ii) any Person (or its agent) who has made or will make a loan to or otherwise provide capital to Lessee (or an Affiliate of Lessee) with respect to the Generating Facility. Lessee shall provide written notice to Lessor of, and the contact information for, any Financing Party prior to a party being deemed a Financing Party hereunder.

35.7. “**Force Majeure Event**” means, when used in connection with the performance of a Party’s obligations under this Agreement, any events or circumstances beyond the affected Party’s reasonable control that arise after the Effective Date, to the extent not caused by the acts or omissions of (and are otherwise unavoidable, or beyond the reasonable control of, and could not have been prevented or overcome by the reasonable efforts and diligence of) such Party and which materially and adversely affects such Party’s performance of its obligations under this Agreement. Force Majeure Event includes but is not limited to the following: (i) war, riot, protests, acts of a public enemy or other civil disturbance; (ii) restrictive governmental laws, orders (including, without limitation, “shelter in place” orders, quarantine orders, or other orders that restrict normal interactions) or regulations (not in effect on the Effective Date) epidemic, pandemic, public outbreak of disease, national, regional, or local emergency (iii) acts of God, including but not limited to, earthquakes, tornados, typhoons, lightning, blizzards, hurricanes and landslides of the type which would, under normal circumstances and typical insurance policies, constitute an event of insurable loss; (iv) acts of, or unreasonably excessive failures to act by, any Governmental Authority including changes in Applicable Law after the Effective Date (other than acts of governmental authorities in response to a Party’s failure to comply with existing Applicable Laws as required in connection with performance under this Agreement); and (v) strikes, walkouts, lockouts or similar industrial or labor actions or disputes not caused by, specific to employees of, or the result of an unfair labor practice or other unlawful activity by the asserting Party.

35.8. “**Governmental Authority**” means any federal, state, regional, county, township, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau or other administrative, regulatory, or judicial body of any such government having jurisdiction over the Property or Leased Lands.

35.9. “**Hazardous Substances**” means and includes, without limitation any substance, chemical, material or waste: (i) the presence of which causes a nuisance or trespass of any kind under any applicable Environmental Law; (ii) which is regulated by any Governmental Authority; (iii) is likely to create liability under any Environmental Law because of its toxic, flammable, corrosive, reactive, carcinogenic, mutagenic, infectious, radioactive, or other hazardous property or because of its effect on the environment, natural resources or human health and safety, including but not limited to, flammables and explosives, gasoline, petroleum and petroleum products, asbestos containing materials, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, microbial matter, biological toxins, mylotoxins, mold or mold spores or any hazardous or toxic material, substance or waste which is defined by those or similar terms or is regulated as such by any Governmental Authority; or (iv) which is designated, classified, or regulated as being a hazardous or toxic substance, material, pollutant, waste (or a similar such

designation) under any federal, state or local law, regulation or ordinance, including under any Environmental Law.

35.10. **“Leased Lands”** means all of the Property.

35.11. **“Lessee Parties”** means, individually or collectively, Lessee, its Affiliates and any of their authorized representatives, agents, employees, managers, contractors, architects, and engineers, and each of their respective officers, directors, partners, members, managers, agents, employees, representatives, and invitees.

35.12. **“Lessor Parties”** means, individually or collectively, Lessor, its Affiliates and any of their authorized representatives, agents, employees, managers, contractors, architects, and engineers, and each of their respective officers, directors, partners, members, managers, agents, employees, representatives, and invitees.

35.13. **“Person”** means any individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other person, or entity, and any federal, state, county or municipal government or any bureau, department, or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

35.14. **“Pre-Existing Environmental Conditions”** means any and all Hazardous Substances which are on, at, under, or migrating or released to or from the Property as of the Effective Date.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year set forth above as the Effective Date.

LESSEE

By: _____
Name / Title

LESSOR

By: _____

EXHIBIT A
LEGAL DESCRIPTION

That certain real property located in Kane County, Illinois, generally known as the following tax parcel numbers:

APN: 14-19-200-018; 14-20-100-015; 14-20-100-021

EXHIBIT B
FORM OF MEMORANDUM OF OPTION
[Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APN: _____

The above space for Recorder's Use Only

MEMORANDUM OF OPTION AND LEASE

THIS MEMORANDUM OF OPTION AND LEASE ("**Memorandum**") is entered into as of _____ (the "**Effective Date**"), by and between the City of Aurora, an Illinois home rule municipal corporation ("**Lessor**"), and _____, a _____ Limited Liability Company ("**Lessee**") to provide record notice of that certain Option and Lease Agreement dated as of the Effective Date ("**Agreement**") whereby Lessor granted to Lessee the option to lease (the "**Option**") the real property described in the attached Exhibit A, together with all improvements, fixtures, personal property and trade fixtures, and all other appurtenances, tenements, hereditaments, ingress, egress, rights and easements pertaining to the Property (collectively, the "**Leased Premises**"). The Option has a term of three (3) years. The lease has an initial term of thirty-five (35) years.

The solar photovoltaic power generating facility and all related equipment installed, owned, and operated by Lessee and located at the Leased Premises (collectively, the "**Generating Facility**") shall not be deemed a fixture. The Generating Facility is Lessee's personal property and Lessor has no right, title, or interest in the Generating Facility. Further, Lessor has waived any and all rights it may have to place a lien on the Generating Facility.

The purpose of this Memorandum is to give record notice of the Lease and of the rights created thereby. The terms and conditions of the Lease are hereby incorporated herein by reference as if fully set forth herein. If any term or condition of this Memorandum shall conflict with any term or condition of the Lease, the terms and conditions of the Lease shall control. Counterpart originals may be assembled in order to make one complete copy of this Memorandum and all such counterpart originals, when taken together, shall comprise but one and the same instrument. Any capitalized term used but not defined herein shall have the meaning ascribed such term in the Lease

-SIGNATURE PAGE FOLLOWS-

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

Lessor:

By: _____

Name: _____

Title: _____

Lessee:

By: _____

Name: _____

Title: _____

[Attach Notary Acknowledgements]

EXHIBIT A to MEMORANDUM OF OPTION AND LEASE
LEGAL DESCRIPTION

That certain real property located in Kane County, Illinois, generally known as the following tax parcel numbers:

EXHIBIT C

FORM OF SUBORDINATION AND NONDISTURBANCE AGREEMENT

[Attached]

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

(Space Above For Recorder's Use)

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT ("**Agreement**"), is made and entered into this ____ day of _____, 20__ by and between the City of Aurora, an Illinois home rule municipal corporation ("**Lessor**"), _____ ("**Lessee**") and _____ ("**Lender**").

RECITALS:

A. By that certain [**Agreement**] dated _____ [as evidenced by that certain Memorandum of Lease recorded on _____, as Instrument Number _____] (collectively the "**Lease**"), by and between Lessor and Lessee, Lessor granted to Lessee certain exclusive and non-exclusive lease and easement rights in, over and under, the real property located in _____, as more particularly described and generally depicted on Exhibit A attached hereto (the "**Property**"); and

B. Pursuant to the terms of the Lease, Lessee has the exclusive right to construct and operate a solar energy project on the Property; and

C. Lessor has obtained certain financing from Lender secured by, among other things, a [**Mortgage/Deed of Trust**] recorded in the official records of _____ on _____, as Instrument No. _____ (collectively the "**Mortgage**"); and

D. The parties hereto desire to establish certain rights, obligations, and priorities with respect to their interests by means of the following agreement.

AGREEMENT:

NOW THEREFORE, for and in consideration of the premises and of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor, Lessee and Lender agree as follows:

1. Lender hereby consents to Lessor's grant of the Lease to Lessee.
2. The Mortgage shall be subject and subordinate to the Lease and to all of the terms,

conditions and provisions thereof, and to any and all amendments, modifications and additions thereto. In the event that Lender or any other person through Lender (any other such person and their respective successors and assigns being referred to herein as a “**Successor Purchaser**”) acquires title to the Property pursuant to the exercise of any remedy provided for in any of the Mortgage or by reason of the acceptance of a deed in lieu of foreclosure, Lender covenants and agrees to attorn to and recognize and be bound to and subject to the other terms, provisions and conditions of this Agreement. Lender, for itself and any Successor Purchaser, agrees that the Lease shall continue in full force and effect as a direct Lease between Lessee and Lender or such Successor Purchaser.

3. So long as the Lease is in full force and effect and Lessee shall not be in default beyond any applicable notice and grace periods under any of the terms, covenants and conditions of the Lease or this Agreement (a) the right of quiet possession of Lessee to the Property shall not be terminated or disturbed by any steps or proceedings taken by Lender or any Successor Purchaser in the exercise of any of its rights under any of the Mortgage; (b) the Lease shall not be terminated or affected by said exercise of any remedy provided for in any of the Mortgage, and Lender, for itself and any Successor Purchaser, hereby covenants that any sale or transfer of any of the Mortgage or any sale or transfer by it of the Property pursuant to the exercise of any rights and remedies under any of the Mortgage, including foreclosure or otherwise, shall be made subject to the rights of Lessee under this Agreement and the Lease; and (c) neither Lender nor any Successor Purchaser shall join Lessee in any enforcement or foreclosure action brought against Lessor unless required by law.

4. In no event shall Lender or any Successor Purchaser be liable for any act or omission of any prior Lessor. Lessee shall, after Lender or any Successor Purchaser shall (a) take possession of the Property, and (b) have provided Lessee with written notice of such possession and proof that Lender or any Successor Purchaser has succeeded to the rights of Lessor, make timely payments of rent and any and all other sums due to the Lender or such Successor Purchaser under the Lease. Lessor irrevocably releases Lessee from any Liability to Lessor for all payments so made. Such payments shall continue until Lender directs Lessee otherwise in writing.

5. Lender acknowledges and agrees that Lender has no interest in the System and neither Lender or any Successor Purchaser shall not gain any interest in the System by virtue of the performance or breach of the Lease by the parties thereto.

6. The foregoing provisions shall be self-operative and effective without the execution of any further instruments on the part of either party hereto.

7. The agreements herein contained shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, successors-in-interest, and assigns.

8. This Agreement may not be modified other than by an agreement in writing signed by the parties hereto or their respective successors-in-interest, and this Agreement may be signed in counterparts, each of which shall be an original but all of which shall be deemed a single agreement.

9. If any term or provision of this Agreement shall to any extent be held invalid or

unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each term and provision hereof shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be governed by _____ law.

10. All notices, consents, requests, instructions, approvals, and other communications provided for herein and all legal process in regard hereto shall be validly given, made or served, if in writing and delivered by personal delivery, overnight courier, telecopier or registered or certified mail, return-receipt requested and postage prepaid addressed as follows:

If to Lessor, to:
City of Aurora
44 E. Downer Place
Aurora, Illinois 60505

With a copy to:
City of Aurora
44 E. Downer Place
Aurora, Illinois 60505
Attn: Law Department
Email: lawdept@aurora.il.us

If to Lessee, to:

If to Lender, to:

or to such other address as any such party hereto may, from time to time, designate in writing to all other parties hereto, and any such communication shall be deemed to be given, made, or served as of the date delivered or, in the case of any communication delivered by mail, as of the date received.

[Signatures on Following Pages]

IN WITNESS WHEREOF, Lessor, Lessee and Lender have caused this instrument to be executed as of the day and year first above written.

LESSOR:

[_____]

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

On _____, before me, _____,
Notary Public, personally appeared _____, proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

LESSEE:

[_____]

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

On _____, before me, _____,
Notary Public, personally appeared _____, proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

LENDER:

[_____]

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

On _____, before me, _____,
Notary Public, personally appeared _____, proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

EXHIBIT D
FORM OF AIMA

[Attached]

EXHIBIT E
PROJECT SCHEDULE

Deadline	Event
Within 5 days of the Effective Date	Lessee submits the hosting capacity map for evaluation.
Within 10 days of the Effective Date	Lessee submits the preapplication to a host utility.
Within 30 days of the Effective Date	Lessee submits its interconnection application.
Within 180 days of the Effective Date	Lessee submits its zoning application.