

AGREEMENT OF PURCHASE AND SALE made the 29th day of May, 2018.

B E T W E E N:

HIGHROAD ESTATES INC.,
a corporation incorporated
under the laws of the Province of Ontario,

(hereinafter called the "**Purchaser**")

OF THE FIRST PART;

- and -

GENCAN CAPITAL INC.,
a corporation incorporated under
the laws of the Province of Ontario,

(hereinafter called the "**Vendor**")

OF THE SECOND PART.

WHEREAS the Vendor owns Solar Rooftop Photovoltaic assets, as more particularly described in Schedule "A" annexed hereto (the "**Purchased Assets**");

AND WHEREAS the Vendor desires to sell and the Purchaser desires to purchase the Purchased Assets upon and subject to the terms and conditions hereunder set forth.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements contained herein, the parties hereto covenant and agree with each other as follows:

ARTICLE 1
PURCHASE OF PURCHASED ASSETS

1.1 Based upon the warranties, representations and covenants set forth herein and subject to the conditions hereinafter contained, the Purchaser shall purchase and the Vendor shall sell to the Purchaser the Purchased Assets, including all of the undertaking, assets and property belonging to or used in connection with the

Purchased Assets or relating to the Purchased Assets, including, without limiting the generality of the foregoing:

- (a) all machinery, equipment, supplies, furniture, furnishings and accessories of all kinds used in connection with the Purchased Assets;
- (b) the full benefit of all unfilled orders received by the Vendor in connection with the Purchased Assets and all other contracts, engagements or commitments to which the Vendor is entitled in connection with the Purchased Assets.

1.2 It is expressly acknowledged and agreed that the Purchaser shall not assume or be liable for any of the liabilities, contingent or otherwise, of the Vendor existing as at the closing date [other than the Loan Payable referred to in section 2.1 hereof], and the Vendor hereby covenants and agrees to indemnify and save harmless the Purchaser from any and all claims, demands, costs and expenses arising under or out of any and all liabilities, indebtedness or obligations of the Vendor, contingent or otherwise, existing as at the closing date or relating to any matter occurring at any time prior to the closing date.

ARTICLE 2

PURCHASE PRICE

2.1 The purchase price for the Purchased Assets [the "**Purchase Price**"] shall be the sum of Two Million, Six Hundred and Thirty Five Thousand Dollars (\$2,635,000.00), payable as follows:

- (a) the sum of Five Hundred Seventy Seven Thousand and Thirty Dollars (\$577,030.00) shall be paid by the Purchaser to the Vendor by certified cheque or wire transferred funds on the closing date; and
- (b) the balance of the purchase price in the amount of Two Million, Fifty Seven Thousand, Nine Hundred Seventy Dollars (\$2,057,970.00) shall be satisfied by the Purchaser assuming a certain loan payable by the Vendor to Genterra Capital Inc. [the "**Loan Payable**"] in the amount of Two Million, Fifty Seven Thousand, Nine Hundred Seventy Dollars (\$2,057,970.00).

2.2 On or prior to the closing date the Vendor and the Purchaser shall jointly elect, pursuant to Section 167 of the *Excise Tax Act* (Canada) (the "ETA") to have the sale of the Purchased Assets herein take place on a tax-free basis under Part IX of the ETA. The Vendor shall file an election made jointly with the Purchaser in prescribed form containing prescribed information with its tax return covering the period in which the

sale of the purchased assets takes place. The Vendor represents and warrants to the Purchaser that:

- (a) the assets being purchased hereunder constitute all or substantially all of the assets used in a commercial activity of a business carried on by the Vendor; and
- (b) the Vendor is registered under Subdivision d of Division V of Part IX of the ETA.

2.3 The Purchaser shall indemnify and save harmless the Vendor from any harmonized sales tax imposed under Part IX of the ETA, penalty or interest which may be payable by or assessed against the Vendor under the ETA due to the supplies under this Agreement not being eligible for the Section 167 election.

2.4 The Vendor agrees to provide the Purchaser with its HST registration number and any other information required by the ETA to be supplied by the Vendor to enable the Purchaser to claim input tax credits or refunds in respect of any harmonized sales tax where applicable. In addition, the Purchaser authorizes the Vendor to verify with the Canada Revenue Agency, the Purchaser's HST registration status and the Purchaser's HST registration number. The Purchaser agrees to provide to the Vendor any further written authorizations or directions that may be required in order for the Vendor to obtain this information.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES BY VENDOR

3.1 The Vendor hereby represents, warrants and covenants as follows:

- (a) The Vendor is a resident of Canada for the purposes of the *Income Tax Act*;
- (b) The Vendor holds all licenses, permits and authorizations from all regulatory authorities having jurisdiction necessary to enable it to carry on the business of the Purchased Assets now carried on where such licenses, permits and authorizations are required to be held by the Vendor, and all such licenses, permits and authorizations are transferable to the Purchaser;
- (c) The Vendor will have good and marketable title to all of the assets being purchased by the Purchaser herein free of all claims, liens, charges or encumbrances whatsoever;
- (d) The Vendor has not and shall not do anything which would adversely affect the Purchased Assets;

- (e) There are no outstanding obligations, agreements of purchase and sale or other agreements or commitments obligating the Vendor to sell the Purchased Assets to any other party;
- (f) The Vendor has no information or knowledge of any facts not generally known to the public relating to the Purchased Assets which, if known to the Purchaser, might reasonably be expected to deter the Purchaser from completing the transaction herein contemplated;
- (g) The lease entered into by the Vendor [which was then known as Genterra Energy Inc.] and Genterra Capital Inc. dated the 1st day of January, 2014 and attached hereto as Schedule "B" is in good standing in all respects without any default having occurred by either party thereto; and
- (h) All of the representations, warranties and covenants of the Vendor and the Principals contained in this Article shall be true on and as of the closing date with the same effect as if made on and as of the closing date.

ARTICLE 4
COVENANTS OF VENDOR AND PRINCIPALS

4.1 Within five (5) days from the date hereof the Vendor shall produce to the Purchaser a list of all machinery, equipment, supplies, furniture, furnishings and other chattels being purchased hereunder, with particulars of serial numbers and full descriptions contained therein.

ARTICLE 5
CONDITIONS

5.1 The transaction contemplated herein shall be conditional upon the following, all or any of which conditions may be waived in whole or in part by the Purchaser by notice in writing given to the Vendor:

- (a) The Vendor shall have delivered a certificate to the Purchaser confirming that all representations, warranties and covenants made by it is true and correct as at the closing date;
- (b) At the closing date the Purchaser shall be satisfied that there has not been any material adverse change in the condition (financial or otherwise), asset or liabilities of the Purchased Assets and that the Purchased Assets has been utilized in the ordinary course to the closing date; and

- (c) On or before the closing date the Vendor shall have taken or caused to be taken all proper steps and actions to enable it to vest a good and marketable title in the Purchaser to the Purchased Assets and all assets pertaining thereto, free of all claims, liens, charges or encumbrances whatsoever, and at the closing date the Vendor shall deliver to the Purchaser such deeds of conveyance, bills of sale, assurances, transfers, assignments, and the documentation herein set forth, and such other documents as counsel for the Purchaser may reasonably require;

5.2 The transaction contemplated herein shall be conditional upon the following, all or any of which conditions may be waived in whole or in part by the Vendor by notice in writing given to the Purchaser:

- (a) The Purchaser shall have delivered a certificate to the Vendor confirming that all representations, warranties and covenants made by it is true and correct as at the closing date;
- (b) The board of directors of the Vendor shall have approved the transaction contemplated herein;
- (c) The shareholders of the Vendor shall have approved the transaction contemplated herein at a Special Meeting of the Shareholders of the Vendor called for such purpose; and
- (d) The Purchaser shall have complied with its covenants and obligations herein, including but not limited to, the payment of the cash portion of the Purchase Price and the assumption of the Loan Payable. If any of the foregoing conditions shall not be fulfilled at the closing date [and shall not have been waived] the Vendor may rescind this Agreement by notice to the Purchaser and in such event the parties shall be released from all obligations hereunder.

ARTICLE 6

450 Dobbie Drive, Cambridge, Ontario (the "Premises")

6.1 The transaction of purchase and sale herein is conditional upon the Vendor transferring and assigning all its right, title and interest in and to the lease for the Premises, a copy of which is annexed hereto as Schedule "B", to and in favour of the Purchaser (or as it may otherwise direct). The Landlord of the Premises shall provide its written consent to the assignment of the lease for the Premises, if required, and shall be required to confirm in writing that the provisions of the lease are and shall on the closing date be in good standing in all respects without any default having been made by either party thereto.

ARTICLE 7
CLOSING DATE

7.1 The closing of the transaction contemplated herein shall take place at 106 Avenue Road, Toronto, Ontario at the offices of the Vendor on the 4th day of July, 2018, or such other time, date or place as may be mutually agreed upon by the Purchaser and the Vendor or their respective solicitors (the "**closing date**").

ARTICLE 8
RISK OF LOSS

8.1 Up to the closing date, all risk of loss of damage by fire or any other cause or hazard to the Purchased Assets shall remain with the Vendor, and the Vendor shall hold all insurance policies and proceeds thereof in trust for the parties hereto. In the event of any destruction or damage by fire or any other cause or hazard to any of the Purchased Assets prior to the closing date, the replacement value of the assets so destroyed or damaged shall be deducted from the Purchase Price payable by the Purchaser hereunder, or if such destruction or damage is, in the opinion of the Purchaser, material, then the Purchaser, at its option, may at any time before the closing date cancel this Agreement.

ARTICLE 9
WARRANTIES TO SURVIVE CLOSING

9.1 All representations, warranties and covenants contained herein and made by the Vendor shall survive the closing of the transaction contemplated herein and shall remain in full force and effect.

ARTICLE 10
NOTICES

10.1 Any notices, document or other communication required to be given hereunder shall be in writing and shall be sufficiently given if sent by prepaid registered mail from a post office in Canada, or by telecopier or facsimile machine, addressed as follows:

(a) in the case of the Vendor to:

106 Avenue Road
Toronto, Ontario M5R 2H3

Attention: Stan Abramowitz

(b) in the case of the Purchaser to:

106 Avenue Road
Toronto, Ontario M5R 2H3

Attention: Stan Abramowitz

or if delivered by hand at such addresses. Each of the foregoing shall be entitled to specify a different address by giving written notice as aforesaid to the other. Any such notice, if mailed, shall be deemed to have been given on the second (2nd) business day following the date of such mailing, except in the case of an intervening postal strike (in which case delivery shall be made by hand), or if delivered by hand, or by telecopier or facsimile, shall be deemed to have been given on the date of delivery if a business day, or if not a business day, on the business day next following the date of delivery.

ARTICLE 11 **TIME OF ESSENCE**

11.1 Time shall be of the essence of this Agreement.

ARTICLE 12 **GOVERNING LAW**

12.1 This Agreement shall be construed in accordance with the laws of the Province of Ontario.

ARTICLE 13 **HEADINGS**

13.1 Headings are not to be considered part of this Agreement and are included simply for convenience of reference and are not intended to be full or accurate descriptions of the contents thereof.

ARTICLE 14
SUCCESSORS AND ASSIGNS

14.1 All of the terms and provisions of this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and assigns.

ARTICLE 15
COUNTERPARTS - FACSIMILE AND E-MAIL

15.1 This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a "pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or "pdf" signature page were an original thereof.

[Signature page follows]

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

SIGNED, SEALED AND DELIVERED)
in the presence of:)

HIGHROAD ESTATES INC.

)
)
) */s/ Mark Litwin*

) Per: _____

) Mark Litwin, President
)
)

)
)
) GENCAN CAPITAL INC.

)
) */s/ Stan Abramowitz*

) Per: _____

) Stan Abramowitz, Secretary
)

Schedule "A"

Purchased Assets

Solar Rooftop Photovoltaic assets installed and operating at 450 Dobbie, Drive Cambridge, Ontario, consisting of:

2805	Solar Collector Panels – Canadian Solar	0.260 kw each
1	Inverter – Advanced Energy	500 kw
1	Transformer – Ascent Solutions Inc.	500 kva
2795	Racking/Frames, Pole Mounts, Ballasted Footing Mounts	
	Miscellaneous Electrical Equipment	

Schedule "B"

THIS LEASE made the 1st day of January, 2014,

BETWEEN:

GENTERRA CAPITAL INC.

(herein called the "Landlord")

- and -

GENTERRA ENERGY INC.

(herein called the "Tenant")

IN CONSIDERATION OF the rents, covenants, obligations and agreements hereinafter reserved and contained, and of other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

A. MEANING OF CERTAIN TERMS

In this Lease and in the schedules and appendices to this lease:

- (a) "Access Rights" has the meaning given to it in Article 2 - D.1);
- (b) "Affiliate" has the meaning given to it under the *Business Corporations Act* (Ontario);
- (c) "Alterations" has the meaning given to it in Article 5 - C.1);
- (d) "Authorized Personnel" has the meaning given to it in Article 2 - D.2);
- (e) "Building" means the building and improvements municipally known as, 450 Dobbie Drive, Cambridge, Ontario, and located on the Lands;
- (f) "Commercial Operation Date" means the date that the Generating Facility first produces and delivers electricity to the Connection Point and the Tenant is entitled to receive payment in accordance with the FIT Contract for the electricity so delivered;
- (g) "Connection Point" means the electrical connection point between the Generating Facility and the Host Facility where electricity is injected into the Host Facility's electrical system or into the Distribution System, as the case may be;
- (h) "Development Initiation Fee" has the meaning given to it in Article 4 - C.1;

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- (i) **“Development Continuation Fee”** has the meaning given to it in Article 4 – C.2;
- (j) **“Development Period”** has the meaning given to it in Article 4 - C.1);
- (k) **“Distribution System”** means the system connected to a grid for distributing electricity at voltages of 50 kilovolts or less, and includes any structures, equipment or other things used for that purpose;
- (l) **“Engineer”** means an Engineer licensed to practice in Ontario and as selected by the Tenant from time to time and approved by the Landlord;
- (m) **“Environmental Law”** shall mean and refer to any statute, law, decree, ordinance, or regulation which relates to or deals with human health or the environment, including, without limitation, all Permits promulgated or issued by a regulatory body pursuant to any such statute, law, ordinance or regulation;
- (n) **“Feed-In Tariff Program”** means the program developed by the OPA, including, without limitation, any regulations under such program, for the Province of Ontario to encourage and promote greater use of renewable energy sources, including solar for electricity generating projects in Ontario;
- (o) **“FIT Contract”** means the agreement between the OPA and the Tenant or an affiliate of the Tenant that provides compensation for the operation of the Generating Facility pursuant to the Feed-In Tariff Program.
- (p) **“Generating Facility”** has the meaning given to it in Article 2 - B.1);
- (q) **“hazardous substance”** shall mean asbestos, radon, urea-formaldehyde, polychlorinated biphenyls (“PCBs”), or substances containing PCBs, nuclear fuel or materials, radioactive materials, explosives, petroleum products and bi-products and any substance defined as hazardous to or as a contaminant or pollutant in, or the release or disposal of which is regulated by any Environmental Law;
- (r) **“Host Facility”** means a facility which the Generating Facility is connected to at the Connection Point and which is connected to a Distribution System;
- (s) **“Inspector”** means any person dispatched by the OPA, the owner or operator of the Distribution System, the Electrical Safety Authority, or other governmental authority or regulatory agency, or by any of the Tenant’s insurers or lenders with an interest in the Project, to inspect, certify or otherwise review the Project or Leased Premises;
- (t) **“Landlord Approval Date”** means the date on which the Landlord provides its consent under Article 2 - B.6) (or is deemed to have given such consent pursuant to Article 17 - F.6));

- (u) **“Lands”** mean the lands on which the Building is located and owned by the Landlord and as described in Schedule A;
- (v) **“Lease Commencement Date”** means January 1, 2014;
- (w) **“Leased Premises”** means that portion of the rooftop of the Building on the plan attached as Schedule B, estimated at 120,000 square feet based on the sketch attached as Schedule B, subject to readjustment upon commercial operation (and after any material Alterations) to reflect the actual rooftop area occupied by the Generating Facility as shown on “as-built” drawings;
- (x) **“New Lease”** has the meaning given to it in Article 12 - B.2);
- (y) **“Non-Curable Defaults”** has the meaning given to it in Article 12 - B.2);
- (z) **“Notice”** has the meaning given to it in Article 12 - B.2);
- (aa) **“OPA”** means the Ontario Power Authority and its successors and assigns;
- (bb) **“Permits”** has the meaning given to it in Article 5 - D.1);
- (cc) **“Preliminary Design”** has the meaning given to it in Article 2 - B.5);
- (dd) **“Prime Rate”** means the rate of interest publicly announced from time to time by The Royal Bank of Canada as its reference rate of interest chargeable by it on Canadian dollar commercial loans in Canada and designated as its prime rate;
- (ee) **“Project”** means the Generating Facility and Property Interconnections;
- (ff) **“Project-Related Reassessment”** has the meaning given to it in Article 7 - E.2);
- (gg) **“Property Interconnections”** has the meaning given to it in Article 2 - B.3);
- (hh) **“Property”** means the Lands and Building;
- (ii) **“Real Property Taxes”** means all real estate taxes, general taxes, local improvement rates, school taxes, levies, rates, duties, assessments and charges from time to time imposed against real property, buildings, structures and improvements by municipal or other governmental authorities having jurisdiction, and all taxes, levies, rates, duties, assessments and charges (including income taxes) which may at any time be substituted therefor or replace the same, but excludes business taxes and taxes on the profit or income of the Landlord;
- (jj) **“Related Activities”** has the meaning given to it in Article 2 - C.1);
- (kk) **“Rent Commencement Date”** means the date determined in accordance with Article 4 - C;

- (ll) **"Rent"** has the meaning given to it in Article 4 - A.1);
- (mm) **"Stipulated Rate of Interest"** means that rate of interest at the time such interest falls due under this lease which is the Prime Rate plus 2% per annum;
- (nn) **"Structural Report"** has the meaning given to it in Article 2 - B.5);
- (oo) **"Tax on Rent"** has the meaning given to it in Article 4 - D.1);
- (pp) **"Tenant Mortgage"** has the meaning given to it in Article 12 - B.1);
- (qq) **"Term"** has the meaning given to it in Article 3 - A.1);
- (rr) **"Transfer"** has the meaning given to it in Article 10 - A.1);
- (ss) **"Utilities"** has the meaning given to it in Article 2 - B.4);

ARTICLE 2 - LEASE AND USE OF LEASED PREMISES

A. LEASED PREMISES

The Landlord hereby leases the Leased Premises to the Tenant and the Tenant hereby leases the Leased Premises from the Landlord for the Term, at the rent, subject to the conditions and in accordance with the covenants, obligations and agreements contained in this lease.

B. PERMITTED USES

- 1) **Generating Facility.** The Tenant shall have the unobstructed and exclusive right to erect, construct, replace, reconstruct, install, maintain, operate an electricity grid-connected photovoltaic solar power plant, initially expected to have a total generating capacity rated at approximately 500 kilowatts as measured on the AC side of the inverter, and all related equipment, apparatus, accessories, works and appurtenances thereto, including without limitation:
 - (a) solar photovoltaic panels, mounting substrates or supports, power inverter, service equipment, metering equipment, wiring and other electrical hardware;
 - (b) monitoring instrumentation and equipment to protect and otherwise facilitate the Tenant's solar monitoring activities; and
 - (c) such power transmission and distribution lines, transformers, inverters, cables, support structures, substations and interconnection facilities as the Tenant deems to be necessary or appropriate to generate or transmit power from the Generating Facility to the Connection Point;
- 2) **Location of Generating Facility.** The Generation Facility shall be located upon the Leased Premises.

- 3) **Property Interconnections.** Despite the foregoing, where the Connection Point is outside of the Leased Premises, the Tenant shall also have the right, at its sole expense, to construct and maintain the following on the Property outside of the Leased Premises:
- (a) that portion of the an electrical connection line from the Generating Facility to the Connection Point that lies outside of the Leased Premises; and
 - (b) a LV/HV transformer outside of the Leased Premises near the Connection Point, if required in the reasonable opinion of the Tenant;

(collectively, "**Property Interconnections**")

and the Landlord will reasonably assist the Tenant in determining where the Property Interconnections should be located.

- 4) **Utilities.** The Tenant shall have the further right, in respect to its operations at or from the Leased Premises, to hook-up to and access electricity supply and telecommunication services (collectively the "**Utilities**"). The Landlord shall, at the Tenant's expense, bring access to such Utilities to a point at the perimeter of or within the Leased Premises as reasonably agreed to by the parties.
- 5) **Due Diligence.** No later than sixty (60) days after the Lease Commencement Date, the Tenant shall:
- (a) confirm the suitability of the Property for the Project, including but not necessarily limited to causing the Engineer, at the Tenant's expense, to confirm in writing whether the structure of the Building's roof is sufficient to support the Generating Facility (a "**Structural Report**"); and
 - (b) prepare a preliminary design of the Project, including but not limited to placement of the key components of the Generating Facility and routing of the Property Interconnections (the "**Preliminary Design**")

and shall deliver a copy of the Structural Report and the Preliminary Design to the Landlord. If the Tenant determines, in its sole discretion, that the Property is not suitable for the Project, then it may terminate this Lease by providing notice in writing to the Landlord before the expiry of the 60-day period.

- 6) **Landlord Approval.** Within fifteen (15) days of receiving the Structural Report and the Preliminary Design, the Landlord will notify the Tenant in writing that the Landlord either:
- (a) consents to the Tenant proceeding with the Project, in which case the Tenant may proceed with the Project, provided that if the Tenant wishes to deviate in any material respect from the Preliminary Design, such deviation shall be deemed to be an Alteration and shall be subject to Article 5 - C.1) or Article 5 - C.2) (or both), as applicable; or

- (b) objects to the Tenant proceeding with the Project, in which case the Landlord's notice shall set out the grounds for its objection, and the Landlord may terminate this Lease by providing notice in writing to the Tenant within fifteen (15) days of providing the Tenant notice.
- 7) **Schedule.** Tenant shall give the Landlord notice of the expected delivery and installation schedule for the Project, and shall notify the Landlord of any actual or reasonably anticipated changes to same.
- 8) **Title to Equipment.** Notwithstanding any rule of law or equity, the Landlord acknowledges and agrees that title to the Project is and shall remain with the Tenant during the Term even though same may be attached, in whole or in part, to the Leased Premises or other parts of the Property.
- 9) **Exclusivity.** The Tenant shall have the sole and exclusive right to convert all of the solar resources at the Building. The Landlord acknowledges that all data collected or produced as a result of the studies conducted by the Tenant are and shall be the exclusive property of the Tenant. The Landlord shall not grant any rights in the Building purporting to permit others to convert solar resources at the Building without the prior written consent of the Tenant, which may be withheld at the Tenant's sole and absolute discretion.

C. INCLUDED PERMITTED USES

- 1) **Related Activities.** Without limiting the foregoing, the rights granted to the Tenant in this lease permit the Tenant to undertake any other activities that the Tenant determines are necessary, helpful, appropriate or convenient in connection with the Feed-In Tariff Program or the FIT Contract, or incidental to accomplish any of the foregoing purposes or for the benefit of the Generating Facility, including conducting surveys and environmental, engineering, mechanical, structural, biological, cultural, geotechnical and other tests and studies ("**Related Activities**"), provided that if and only to the extent that such Related Activities:
 - (a) occur on the Property but not upon the Leased Premises; or
 - (b) are reasonably expected to have a material effect on the structure of the Building;the Tenant shall obtain the prior consent of the Landlord before commencing such activities.
- 2) **Re-powering.** Without limiting the generality of the foregoing, but subject to Article 5 - C, the Landlord acknowledges and agrees that the Tenant may (but shall not be required to) from time to time replace or repower the Generating Facility on the Leased Premises with a newer (and potentially larger) Generating Facility wholly within the Leased Premises.

D. ACCESS RIGHTS

1) **Access Rights.** Landlord further hereby grants to Tenant for the Term:

- (a) a non-exclusive right to use such portions of the Building's equipment rooms and building risers and raceways, and over or under such other portions of the Property, as may be reasonably necessary for the purpose of connecting the Project to the public utility system, as determined in accordance with this Lease;
- (b) a non-exclusive right of access, and ingress and egress to and from the Leased Premises over the Property and the Building, and for parking for one (1) vehicle in the designated parking areas of the Property; and
- (c) a non-exclusive right to use of any utility, transmission or other easements, rights of way or licenses held by Landlord with respect to the Property;

for purposes related to or associated with the Project installed or to be installed at the Leased Premises (collectively, "Access Rights")

2) **Benefit of Certain Access Rights.** The Access Rights described in Article 2 - D.1)(a) and (b) shall be for the benefit of not only the Tenant, but also the employees, subcontractors (as permitted under this Lease) and agents of the Tenant, the Engineer, and any Inspectors (collectively "Authorized Personnel"). Except in the event of an emergency, the Tenant agrees to give at least twenty four (24) hours prior notice to the Landlord of its intent to enter the Building's rooftop, equipment rooms, risers and raceways. In the event of an emergency, the Tenant shall give the Landlord as much advance notice as reasonably possible.

3) **Conditions.** The Access Rights are subject to the following terms and conditions:

- (a) Access Rights shall run with and burden the Property for the Term of the lease and ensure to the benefit of Tenant and its successors or permitted assigns and shall be binding upon Landlord and its successors and permitted assigns.
- (b) No act or failure to act on the part of the Tenant or the holder of the Access Rights shall be deemed to constitute an abandonment, surrender or termination thereof, except upon execution by such holder of a release specifically releasing the Tenant's or holder's interest therein, provided that any valid termination of this lease shall also terminate such Access Rights.
- (c) Non-use of the Access Rights shall not prevent the future use of the entire scope thereof.
- (d) No proper use of or improvement to the Building or any lands owned by persons benefited by the Access Right, and no permitted assignment or sublease hereof or thereof, shall, separately or in the aggregate, constitute an overburdening of the Access Right.

E. TEMPORARY STORAGE

Landlord will use commercially reasonable efforts to provide sufficient space adjacent to the Leased Premises or the Building, if requested by the Tenant, for the temporary storage and staging of tools, materials and equipment reasonably necessary during installation, repair and replacement of the Generating System (including when the Generating System must be moved pursuant to Article 5 - B.2)). The Landlord will also provide the Tenant a reasonable area adjacent to the Leased Premises or the Building, if needed, for construction type lay-down and staging. The Landlord and the Tenant will coordinate and cooperate in determining the amount of space required for such purposes.

F. SUBCONTRACTORS AND INVITEES OF THE TENANT

- 1) **Use of Subcontractors.** Notwithstanding any other provision of this Lease, the Landlord acknowledges and agrees that the Tenant may engage subcontractors to complete some or all of the activities permitted under this Lease, subject to the following:
 - (a) where a subcontractor will carry out activities that will occur wholly upon the Leased Premises, the Tenant shall provide the Landlord with prior notice of the identity of the subcontractor and the expected duration of the subcontractor's presence on the Property; and
 - (b) where a subcontractor will carry out activities that will occur on the Property but outside of the Leased Premises, the Tenant shall obtain the Landlord's prior approval of the subcontractor before the subcontractor commences such activities.

G. OPA REQUIREMENTS

It is acknowledged by the parties that this lease must comply in all respects with the requirements of the OPA relating to the Feed-In Tariff Program, which may be altered from time to time. Accordingly, the Landlord agrees that, upon request by the Tenant, this Lease will be amended as may be reasonably required to conform to the requirements of the OPA, provided that such amendments do not materially impair the Landlord's rights or substantially increase the burden and obligations of the Landlord under the Lease.

ARTICLE 3 - TERM

A. TERM

- 1) **Term.** Subject to earlier termination as provided in this Lease, TO HAVE AND TO HOLD the Leased Premises for and during the period beginning on the Lease Commencement Date and ending on the day preceding the twentieth anniversary of the Rent Commencement Date (the "Term").

- 2) **Renewal.** The Tenant may, on notice to the Landlord delivered at least sixty (60) days prior to the end of the Term, choose to extend the Term for a period of not longer than ten (10) additional years on the terms and conditions of this Lease.

B. DOCUMENTATION

- 1) **Declaration.** The Landlord and the Tenant shall, upon execution of this Lease, execute a declaration regarding Section 50(3) (d.1) of the *Planning Act* (Ontario), in form and substance reasonably acceptable to the Tenant.

ARTICLE 4 - RENT

A. RENT

- 1) **Rent.** Subject to earlier termination as provided in this Lease, from and after the Rent Commencement Date, the Tenant shall pay to the Landlord in lawful money of Canada, without deduction, abatement or set-off (except as may be specifically provided herein), an annual gross rent for the Leased Premises of \$0.50 per square foot occupied by the Generating Facility ("**Rent**"). The square footage of the Leased Premises is estimated in Schedule B, but may be subject to reasonable adjustment based on the "as built" configuration of the Generating Facility.
- 2) **Gross Rent.** Subject only to the exceptions expressly provided in this Lease (including in subsection (3) below), the Landlord specifically acknowledges and agrees that the Rent is a gross rent and includes, without limitation: any and all contributions of the Tenant toward Real Property Taxes levied or charged against the Landlord relating to the Lands, Building, or the Leased Premises; the Landlord's operating costs of the Property, including, without limitation, utilities, insurance costs (other than Tenant's insurance for which the Tenant is responsible); other costs and expenses relating to or in respect to the Landlord's ownership of the Property, and other costs and expenses relating to or in respect of the Landlord's rights and obligations under this Lease.
- 3) **Exceptions to Gross Rent.** Notwithstanding the foregoing, the Tenant shall be responsible for paying the following in addition to Rent:
 - (a) to the service provider, the cost of supplying electricity used or consumed by the Tenant in respect of the Project, provided that such fee shall be subject to annual review. At its discretion the tenant may require separate metering and at which time it may be reasonably adjusted for subsequent years based on the Tenant's actual consumption; and
 - (b) to the service provider, the hook-up and monthly fees for any telecommunications services used by the Tenant on the Leased Premises or otherwise in connection with the Project, the accounts for which shall be in the Tenant's name.

B. PAYMENT OF ANNUAL RENT

- 1) **Payment.** The Rent shall be paid in equal consecutive monthly instalments in advance on the first day of each month.
- 2) **Pro Rating.** The Rent for the portion of the Term beginning on the Rent Commencement Date to and including the last day of the month in which the Rent Commencement Date occurs shall be pro-rated and paid in advance on the Rent Commencement Date. In the event that the Term should end on a day other than the last day of a month, then the Rent for the portion of the month in which termination occurs shall be pro-rated and paid on the first day of such month.

C. DEVELOPMENT PERIOD

- 1) **Development Period.** Prior to the Rent Commencement Date, the Tenant shall be entitled to all of the benefits under this Lease during the period beginning on the Lease Commencement Date and ending no later than twenty-six (26) months thereafter (the "Development Period"), subject to this Article 4 - C.
- 2) **Early Completion of Development Period.** In the event that the Commercial Operation Date occurs before the end of the Development Period, the Development Period shall automatically be deemed to have ended on the day before the Commercial Operation Date and the Rent Commencement Date shall be the Commercial Operation Date. Where the Development Period is deemed to have ended pursuant to this section after at least one Development Continuation Fee has been paid, an amount equal to the number of full months remaining until the next Development Continuation Fee is due divided by six (6), multiplied by the value of a Development Continuation Fee shall be deemed to be a deposit on Rent, to be applied to the initial Rent payments due under this Lease.
- 3) **Abandoning Development.** The Tenant may terminate the Lease in its sole discretion by providing written notice of termination to the Landlord at least thirty (30) days before the next Development Continuation Fee is due or before the end of the Development Period, as applicable. If no notice of termination is given in accordance with this section, and the Development Period ends before the Commercial Operation Date, then the Rent Commencement Date shall be the day after the last day of the Development Period.

D. HST

- 1) **Responsibility for Tax on Rent.** Notwithstanding anything contained in this lease, it is understood and agreed between the parties that the Rent payable by the Tenant under this Lease includes the amount of all goods and services taxes, sales taxes, value-added taxes, multi-stage taxes, business transfer taxes and any other taxes imposed on the Tenant in respect of rent payable by the Tenant under this lease or in respect of the rental of space by the Tenant under this lease, including, for greater certainty the Harmonized Sales Tax (collectively and individually, "Tax on Rent").

- 2) **Calculation and Payment.** Tax on Rent so payable by the Tenant, will:
- (a) be calculated and remitted to the appropriate taxation authorities by the Landlord in accordance with the applicable legislation;
 - (b) be paid by the Tenant at the same time as the amounts to which the Tax on Rent applies are payable to the Landlord under the terms of this Lease (or upon demand at such other time or times as the Landlord from time to time determines); and
 - (c) despite anything else in this lease, be considered not to be rent, but the Landlord shall have all the same remedies for and rights of recovery with respect to such amounts as it has for non-payment of rent under this Lease or at law.

E. ACKNOWLEDGEMENT

The Landlord and the Tenant shall execute an acknowledgement confirming Rent Commencement Date promptly after such date has been determined, in form and substance reasonably acceptable to the Tenant.

ARTICLE 5 - REPAIR, MAINTENANCE AND ALTERATIONS

A. TENANT'S OBLIGATIONS

- 1) **Maintenance of the Project.** The Tenant shall maintain and repair (except as otherwise provided herein) the Project as required under the FIT Contract and as would a prudent owner of such a Generating Facility, such repairs and maintenance to include those of a capital nature, subject to reasonable wear and tear.
- 2) **Maintenance of the Leased Premises.** The Tenant shall keep the Leased Premises (excluding the Generating Facility) in a neat and tidy condition. The Tenant shall have no obligation to undertake any other routine or preventative maintenance in respect of any part of the Building that is within the Leased Premises, including the roof and structure under the Leased Premises.
- 3) **Repairs.** Any damage to the Building which an Engineer determines is caused as a result of the installation or continuing presence of the Project, including but not limited to any damage which the Engineer determines is caused by wilful acts or negligence of the Tenant or its employees or subcontractors during the installation, maintenance, operation, alteration, repair or removal of the Project, shall be repaired by the Landlord. The Tenant agrees to pay for the Landlord's out-of-pocket expenses for such repairs with thirty (30) days of receive of an invoice for same, provided that such invoice includes reasonably sufficient documentation of the cost and confirmed completion of such repairs to the Tenant. For greater clarity, the Tenant's obligation to pay for repairs applies only to the extent that such repairs return the Building to its condition prior to the damage, and does not apply to any upgrades or improvements that the Landlord elects to make concurrently with the repairs.

B. LANDLORD'S OBLIGATIONS

- 1) **Maintenance of the Building.** The Landlord shall maintain and repair the Building, including, without limitation, the roof and structure of the Building under the Leased Premises, as would a prudent owner, such repairs and replacements to include those of a capital or structural nature, subject to reasonable wear and tear.
- 2) **Maintenance of the Roof.** Without limiting the generality of the foregoing, the Landlord's obligations hereunder shall include normal repairs, maintenance and replacement of the rooftop including the portion of the rooftop within the Leased Premises, subject to the following:
 - (a) The Landlord shall notify the Tenant in advance of any intended repairs or maintenance of the portion of the rooftop within the Leased Premises and agrees to perform such repairs and maintenance without unduly interfering with the operations of the Generating Facility; provided that if the Landlord, in fulfilling its obligations hereunder, reasonably determines that the Generating Facility or portion thereof must be moved or the operation thereof must otherwise be disrupted, the Landlord shall provide to the Tenant one (1) month's notice of such requirement.
 - (b) In the event of repairs requiring the Tenant disrupt the operations of the Generating Facility and move, shut-down or impact the operations of a portion of the Generating Facility not exceeding one thousand (1,000) square feet of Leased Premises, such disruption shall last for no more than 48 hours, and may occur no more than three (3) times during the term of this agreement. If further disruptions are required, the Landlord shall compensate the Tenant for all costs required to temporarily remove, relocate, store and replace the Generating Facility or portion thereof (as applicable) and all operating revenue lost during such disruption as reasonably calculated by the Tenant in such subsequent instances.
 - (c) Notwithstanding the above, in the event of repairs requiring the Tenant disrupt the operations of the Generating Facility and move, shut-down or impact the operations of a portion of the Generating Facility exceeding one thousand (1,000) square feet of Leased Premises, such disruption shall not be performed between May 1 and August 31 of any given year, shall not last for no more than five (5) weeks, and may not occur more than once during the term of this agreement. If further disruptions are required, the Landlord shall compensate the Tenant for all costs required to temporarily remove, relocate, store and replace the Generating Facility or portion thereof (as applicable) and all operating revenue lost during such disruption as reasonably calculated by the Tenant in such subsequent instances.
- 3) **Clear Access.** The Landlord shall ensure the access to and from the Leased Premises is freely available to the Tenant and its Authorized Personnel at all times and is free and clear of any obstructions, equipment or other apparatus.

C. TENANT'S ALTERATIONS

- 1) **Alterations to Generating Facility.** The Tenant may make any alteration, addition, repair or improvement (collectively "**Alterations**") to the Generating Facility, provided that before commencing the Alterations to the Generating Facility, the Tenant shall have the Engineer determine whether the such Alterations will have a material impact on the structure of the building, and provided that only if the Engineer determines that the Generating Facility will have such an impact, the Tenant shall obtain the Landlord's prior written approval of such Alterations.
- 2) **Alterations to Property Interconnections.** The Tenant may make any Alterations to the Property Interconnections, provided that the Tenant shall obtain the Landlord's prior approval of such Alterations.
- 3) **Conditions.** All such Alterations shall be undertaken and completed:
 - (a) at the sole cost of the Tenant,
 - (b) in a good and workmanlike manner; and,
 - (c) in accordance with any drawings or specifications approved by the Landlord, where such approval is required.

D. PERMITS

- 1) **Tenant's Responsibility.** The Tenant will obtain and maintain all governmental permits, including building permits, licenses, certificates, approvals, variances and other entitlements for use (collectively the "**Permits**"), necessary for the construction, installation and operation of the Project.
- 2) **Landlord's Cooperation.** The Landlord hereby gives its consent to any action taken by the Tenant in applying for any and all Permits that the Tenant finds necessary or desirable for the construction, installation or operation of the Project. The Landlord agrees to assist and reasonably cooperate with the Tenant in obtaining the Permits, and the Landlord hereby appoints the Tenant its agent for applying for such Permits. The Landlord agrees not to wilfully or negligently do or fail to do anything that it knows will impair the ability of the Tenant to obtain, maintain or comply with any Permit.
- 3) **Costs.** The Tenant shall be responsible for the following costs of obtaining and maintaining permits, including:
 - (a) its own costs of preparing applications for Permits;
 - (b) any and all fees, security deposits, renewals, periodic payments or other disbursements paid to the entity issuing or administering the permit; and

- (c) any costs incurred by the Landlord in respect of the Permits, but only to the extent that the Tenant expressly requested in advance that the Landlord incur such costs.

**ARTICLE 6 - ADDITIONAL COVENANTS, REPRESENTATIONS AND
WARRANTIES OF TENANT**

The Tenant covenants, represents and warrants to and in favour of the Landlord as follows:

A. COMPLIANCE WITH LAW

The Tenant shall at all times comply, in all material respects, with all municipal, provincial and federal laws, rules and ordinances, orders, statutes, regulations and Permits applicable to the Tenant's operations on and use of the Leased Premises, including, without limitation, compliance in all material respects with the laws and regulations required to be complied with pursuant to the FIT Contract. All costs or penalties resulting from non-compliance with the same shall be borne by the Tenant.

B. CONSTRUCTION LIENS

The Tenant shall keep the Leased Premises free and clear of any construction liens and other liens for supplies, equipment, materials, services and labour purchased by the Tenant, except that the Tenant reserves the right to contest any such lien at no cost to the Landlord. The Tenant will post bond, pay the required amount into court or escrow sufficient proceeds to cover the cost of removing any such lien if the Tenant intends to or does contest the lien. Any failure to remove any such lien within sixty (60) days next following registration of such lien will constitute a default under this lease, and the Landlord shall have recourse to all remedies available to it in respect of default.

C. HAZARDOUS SUBSTANCES

The Tenant shall not store, use, dispose of or release on the Leased Premises, or cause or allow to be stored, used, disposed of or released on the Leased Premises, any hazardous substance, except as needed for the Tenant's normal business operations and provided that such use does not violate Environmental Laws. The Tenant shall immediately notify the Landlord in the event any action or claim is brought against the Tenant in connection with the foregoing.

D. SURRENDER OF POSSESSION AND RESTORATION OF LEASED PREMISES

The Tenant agrees to surrender and return the Leased Premises to the Landlord on expiry or termination of this Lease and agrees to remove (and for clarity the Tenant is entitled to remove) the Generating Facility and Property Interconnections within six (6) months after termination or expiration of the Term and return the portion of the rooftop located within the Leased Premises to substantially the same condition as the balance of the rooftop is then in.

E. PROVISION OF DOCUMENTS

The Tenant shall provide the Landlord with "as-built" drawings of the Project, and with any other information about the Project that may be reasonably requested by the Landlord, provided that the Landlord agrees to use such drawings and information only for the purposes of satisfying requirements of the Landlord's insurers or mortgage lenders and for managing the safety and security of the Building, and for no other purpose.

ARTICLE 7 - ADDITIONAL COVENANTS, REPRESENTATIONS AND WARRANTIES OF LANDLORD

The Landlord covenants, represents and warrants to and in favour of the Tenant as follows:

A. TITLE TO PROPERTY

The Landlord is the registered and beneficial owner of the Property in fee simple, subject to no liens, easements, rights of way, restrictions, covenants or other encumbrances except as disclosed by registered title or otherwise disclosed in writing to the Tenant in a title report or other document deliver to the Tenant prior to the execution of this lease. The Landlord has the full and unrestricted power and authority to execute and deliver this lease and grant any rights herein granted. The execution and delivery of this lease will not violate any agreement or other obligation by which the Landlord is bound.

B. NO INTERFERENCE

- 1) **Quiet Use and Enjoyment.** As long as the Tenant is not in material default under this lease, the Tenant shall have the quiet use and enjoyment of the Leased Premises in accordance with the terms of this Lease without any suit, trouble or interference of any kind by the Landlord or any party claiming against or through the Landlord.
- 2) **Non Interference.** The Landlord will not use the Property (or any part thereof) or permit the Property (or any part thereof) to be used for any use that interferes with, is incompatible with, or is in competition with the Tenant's use of the Leased Premises. Without limiting the generality of the foregoing, the Landlord will not:
 - (a) use the Property (or any part thereof) in any way that impedes, decreases or interferes with the solar energy reaching the Leased Premises, or creates a risk of damage to or injury to the Project or the Tenant's property;
 - (b) take or permit its employees or agents to take any action that would interfere with, threaten or damage the Tenant's power or distribution lines or cables, including the Property Interconnections;
 - (c) assign or encumber the Property (or any part thereof) or grant any license, easement or other right with respect to the Property (or any part thereof), which may interfere with the Tenant's operation without the Tenant's prior consent;

- (d) build or permit to be built on any part of the Property, including without limitation the rooftop of the Building, or on any lands owned (directly or indirectly) by or controlled (directly or indirectly) by the Landlord within the vicinity of the Land, any building or obstruction which may, in the Tenant's opinion, interfere with the Tenant's operation, including by shading the Generating Facility, without the Tenant's consent;

provided that in the event that the Landlord breaches any of the foregoing covenants, the Landlord shall compensate the Tenant for all operating revenue lost as a result of such breach as reasonably calculated by the Tenant.

- 3) **Exception.** Notwithstanding the foregoing, if the Landlord wishes to make substantive changes to the rooftop, which may include without limitation the installation or relocating of HVAC equipment, exhaust stacks or other similar installations, that may obstruct or interfere with the Generating Facility, the Landlord shall provide written notice of the details of such proposed changes and, provided that the Tenant determines in its sole and absolute discretion that there is suitable alternative space on the rooftop of the Building to relocate the Generating Facility, the Tenant will consent to such relocation, provided the Landlord reimburses the Tenant for all lost operating revenue during such relocation period as calculated by the Tenant, acting reasonably, and pays all costs of such relocation.

C. NEIGHBOURING DEVELOPMENT

In the event that a third party proposes a development or other improvements for lands that are in the vicinity of the Land but that are not owned (directly or indirectly) by the Landlord, and such development or improvements may in any way impede, decrease or interfere with the solar energy reaching the Leased Premises, the Landlord will, at the request and cost of the Tenant, object to such development or planned improvements. If the Tenant requests the Landlord to object to such development or planned improvements, and unless the parties otherwise agree, the Tenant shall have carriage of such action and shall indemnify and save harmless the Landlord from any costs or damages that the Landlord may suffer as a result of the Tenant's action.

D. HAZARDOUS SUBSTANCES

- 1) **Representation.** The Landlord confirms that no hazardous substance has been stored, used, disposed of or released on or under the Property or Lands before Lease Commencement Date except in full compliance with Environmental Laws.
- 2) **Indemnity.** The Landlord shall indemnify the Tenant, its successors and assigns from and against all losses, claims, costs, expenses, damages, fines, administrative monetary penalties, or other liabilities (including without limitation, all legal fees and disbursements on a solicitor and client basis) which at any time may be paid or incurred by the Tenant directly and indirectly arising from or attributable to hazardous substances being located on or in the Property or any part thereof which was not caused by the Tenant during its occupancy of the Leased Premises.

- 3) **Responsibility for Remediation.** The Landlord shall, at its cost, remove and remediate any hazardous substances located on, in or under the Property (including the Leased Premises) unless caused by the Tenant during its occupancy of the Leased Premises, and if the operations of the Tenant on and from the Leased Premises are affected during any removal or remedial action, Rent will abate fully until the removal or remedial work is completed, or the Tenant may, upon notice to the Landlord, terminate the lease by notice in writing to the Landlord.
- 4) **Option to Extend.** At the option of the Tenant, the Term of this Lease shall be extended by the period for which the Tenant is unable to operate the Generating Facility as a result of remediation undertaken pursuant to the previous subsection.

E. REAL PROPERTY TAXES

- 1) **Responsibility.** The Landlord shall pay when due, all Real Property Taxes levied, charged or assessed against the Property, including without limitation, the Leased Premises.
- 2) **Project-Related Reassessment.** If, as a result of the presence of the Project or execution of this Lease, a taxation authority increases the current assessed value of the Property or changes the property classification of all or part of the Property (a "Project-Related Reassessment"), then the Tenant shall indemnify and hold harmless the Landlord for any incremental increase in Real Property Taxes levied as a result of such Project-Related Reassessment, to the extent attributable to the presence of the Project or execution of this Lease, on the condition that the Landlord will, at the request and cost of the Tenant, seek a reconsideration or appeal of the Project-Related Reassessment. If the Tenant requests the Landlord to seek such a reconsideration or appeal, and unless the parties otherwise agree, the Tenant shall have carriage of such action and shall indemnify and save harmless the Landlord from any costs or damages that the Landlord may suffer as a result of the Tenant's action

F. WAIVED RIGHT TO OBJECT

The Landlord acknowledges that certain aspects inherent to the operation of the Project may result in some nuisance, such as visual impacts, possible increased noise levels, and other possible effects of electrical generation and transmission, including without limitation, potential interference with radio, television, telephone, mobile telephone or other electronic devices. The Tenant will use reasonable commercial efforts to attempt to minimize any impact to the Landlord, and abide by all regulations pertaining to the permitting and design of the Project. The Landlord hereby accepts such nuisance and waives its right to object to such nuisance.

ARTICLE 8 - INSURANCE

A. TENANT'S INSURANCE

- 1) **Coverage.** The Tenant shall keep in full force and effect during the Term at its own expense:
 - (a) all risk property damage insurance in an amount not less than full replacement cost of all property owned by the Tenant on or in the Leased Premises;
 - (b) comprehensive general liability insurance in such form and terms as are reasonably satisfactory to the Landlord.
- 2) **Certificates of Insurance.** Upon request by the Landlord, the Tenant shall deliver certificates evidencing the insurance that the Tenant is required to carry in accordance with this Lease.

B. WAIVERS, CROSS-LIABILITY AND SUBROGATION

The insurance policies referred to in Article 8 - A and any insurance policies of the Landlord relating to the Property (or any part thereof) shall contain a waiver of rights of subrogation against the Landlord and those for whom the Landlord is in law responsible, and the Tenant and those for whom the Tenant is in law responsible, as the case may be, and a cross liability clause protecting the Landlord and those for whom the Landlord is in law responsible against claims by the Tenant, as if the Landlord were separately insured and protecting the Tenant and those for whom the Tenant is in law responsible, as the case may be, against claims by the Landlord as if the Tenant were separately insured.

C. CO-OPERATION

The Landlord and the Tenant will work together and use commercially reasonable efforts to ensure that the interest of the Landlord and the Tenant in the Leased Premises, the operations conducted at the Leased Premises and the interest of the Landlord and the Tenant under this lease are adequately covered by insurance and that the insurers of the Landlord and the Tenant are compatible and that there is no gap or overlapping of coverage. In all situations the Tenant and Landlord shall use reasonable commercial efforts to cause their respective insurers to waive any claim they may have against the other and those for whom the other is in law responsible.

ARTICLE 9 - DAMAGE/DESTRUCTION

A. REPAIR OF DAMAGE

- 1) **Election of Landlord.** If the Building suffers damage, such that access to and from the Leased Premises is adversely affected, or if such damage results in the operations of the Generating Facility or the Property Interconnections being adversely affected, then the Landlord shall advise the Tenant in writing within sixty (60) days of date of damage of whether or not the Landlord will repair the damage. If the Landlord elects to repair the damage, it shall do so promptly at its expense.
- 2) **Election of Tenant.** If the Landlord elects not to make such repairs, or fails to advise that it is willing to make such repairs within sixty (60) days of date of such damage, then the Tenant may advise the Tenant in writing within thirty (30) days of the earlier of receipt of notice of the Landlord's election or the expiry of the Landlord's 60-day election period that the Tenant will repair the damage. If the Tenant elects to repair such damage, it shall do so at its expense, but need only do so to the extent required to restore the operation of the Project.
- 3) **No Repair.** Where neither the Landlord nor the Tenant elects to repair the damage, then either party may terminate the lease immediately upon delivery of notice to the other.

B. TENANT'S RIGHTS

- 1) **During Repairs.** In the event that either the Landlord or the Tenant elects to repair such damage, the following shall apply:
 - (a) Until such repairs are completed sufficiently to enable the Project to produce electricity and to deliver such electricity to the Connection Point, the Tenant's obligation to pay Rent under this Lease shall be fully suspended; and
 - (b) At the option of the Tenant, the Term of this Lease shall be extended by the period for which the Project is unable to produce electricity and deliver such electricity to the Connection Point as a result of such damage.
- 2) **Upon Termination.** Upon the giving of the required notice of terminating the lease, the lease shall end as at date of damage or occurrence of the event and Rent shall be paid up to such date and neither party shall have any further obligation to the other. In addition, each of the Landlord and the Tenant shall have the right to claim against their respective insurance, with each party cooperating with the other to obtain proceeds under their respective insurance for damage claims.

ARTICLE 10 - ASSIGNMENTS

A. TENANT

- 1) **Assignment.** The Tenant shall at all times have the right to sell, assign, sublet, transfer or grant any or all of its rights and interest under this lease and the Leased Premises (each a "Transfer") upon receiving the Landlord's prior written consent, which will not be reasonably withheld, provided, however, that the term of any such Transfer shall not extend beyond the term of this lease and that any and all such Transfer shall be expressly made subject to all of the terms, covenants and conditions of this lease. No such Transfer shall relieve the Tenant of its obligations under this lease unless the Tenant assigns its entire interest hereunder and the assignee assumes all obligations of the Tenant hereunder, in which event the Tenant shall have no continuing liability.
- 2) **Exceptions to Approval Requirement.** Notwithstanding the foregoing, the Tenant shall, without the approval of the Landlord, be permitted to undertake a Transfer to any Affiliate.
- 3) **Notice.** Whether or not the Landlord's approval of an assignment is required, the Tenant shall give written notice to the Landlord in advance of any proposed assignment, including the name, address and phone number of the party receiving the assignment, together with such further and other information as the Landlord may reasonably require.

B. LANDLORD

- 1) **Assignment.** The Landlord shall continue to have the right to sell or transfer the Lands and the Property and/or assign its rights under this lease. No such sale, assignment, or transfer shall relieve the Landlord of its obligations under this lease unless the Landlord assigns its entire interest hereunder and the assignee becomes the owner of the legal rights requisite to fulfill, and does assume in favour of the Tenant, all obligations of the Landlord hereunder, in which event the Landlord shall have no continuing liability.
- 2) **Notice.** The Landlord shall forthwith give written notice to the Tenant of any assignment or transfer, including the name, address and phone number of the party receiving the assignment or transfer and the extent of any such assignment or transfer.

ARTICLE 11 - DEFAULT AND TERMINATION

A. LANDLORD MAY PERFORM TENANT'S COVENANTS

If the Tenant shall be in default of its covenants, obligations or agreements under this lease, and such default shall have continued for such period as may be reasonable in the circumstances to remedy such default after notice by the Landlord to the Tenant specifying with reasonable particularity the nature of such default and requiring the same to be remedied, the Landlord, without prejudice to any other rights which it may have with respect to such default, may remedy such default and the cost thereof to the Landlord, together with interest at the

Stipulated Rate of Interest from date such cost was incurred by the Landlord, shall be added to the Rent due on the next succeeding date on which Rent is payable and such amount shall become due and payable as Rent in addition to the regular payment of Rent then due.

B. TENANT MAY PERFORM LANDLORD'S COVENANTS

If the Landlord shall be in default of any of its covenants, obligations or agreements under this lease, and such default shall continue for such period of time as may be reasonable in the circumstances to remedy such default after notice by the Tenant to the Landlord specifying with reasonable particularity the nature of such default and requiring the same to be remedied, the Tenant, without prejudice to any other rights which it may have with respect to such default, may remedy such default, and the cost thereof to the Tenant, together with interest thereon at the Stipulated Rate of Interest from the date such cost was incurred by the Tenant, may, upon written notice to the Landlord, be deducted from Rent due on the next succeeding day on which Rent is payable.

C. DEFAULT

If an event of default occurs and remains uncorrected, the non-defaulting party shall have the right, but not the obligation, subject to Article 12 below, to terminate this lease without prejudice to any other rights and remedies under this lease. Each of the following shall constitute an event of default:

- (a) Either party fails to pay amounts required to be paid by this lease when due, and such failure or omission has continued for thirty (30) days after written notice from the other party; or
- (b) Either party fails in any material respect to perform or comply with any of the other terms, duties, obligations or conditions of this lease and such failure or omission has continued for sixty (60) days (or such longer period as may be reasonably required to cure such failure or omission, if such failure or omission cannot reasonably be cured within such sixty (60) day period) after written notice from the other party.

D. CHANGE IN FIT CONTRACT

If the FIT Contract is terminated, the Tenant may, by notice to the Landlord, terminate this lease and, upon the giving of such notice, this lease shall terminate effective as of the date provided for in such notice. All Rent shall be paid to the date of termination and neither party shall have any further obligations to the other or any claim against the other in connection with this lease other than such obligations as are set out herein and intended to survive termination of this lease, including without limitation the obligations in Article 6 - D.

ARTICLE 12 - ENCUMBRANCE OF LEASE

A. NON-DISTURBANCE AGREEMENT

The Landlord shall use reasonable commercial efforts to obtain from any person now or hereafter holding a mortgage, deed of trust, pledge, charge, encumbrance or other security device, such person's written assurance in favour of the Tenant that the Tenant's occupation and use of the Leased Premises during the Term shall not be disrupted or disturbed by such person so long as the Tenant is not in default under this Lease.

B. TENANT'S RIGHT TO ENCUMBER

- 1) **Tenant Mortgages.** The Tenant may, upon notice to the Landlord, but without the Landlord's prior written consent or approval, mortgage, charge, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Lease and the Leased Premises. These various security interests in all or a part of the Tenant's interest in this lease and the Leased Premises are collectively referred to as "**Tenant Mortgage**" and each holder of Tenant Mortgage is referred to as "**Tenant Mortgagee**". Any such Tenant Mortgagee shall use the Leased Premises only for the uses permitted under this Lease. The Tenant shall deliver to the Landlord, within thirty (30) days of the giving of a Tenant Mortgage, all security documents and contact information pertaining to any Tenant Mortgagee, and should the Tenant fail to do so, the Landlord shall not be bound by the Covenants set out below.
- 2) **Covenants for Tenant Mortgagee's Benefit.** Should the Tenant mortgage any of its interest as provided in Article 12 - B above, the Tenant and the Landlord expressly stipulate and agree between themselves and for the benefit of any Tenant Mortgagee as follows:
 - (a) *No Modification.* They shall not modify, alter, cancel or surrender this lease and the Landlord shall not accept a surrender, abandonment, cancellation or release of all or part of this lease or the Leased Premises from the Tenant, prior to the expiration of the Term without the prior written consent of Tenant Mortgagee. This provision is for the express benefit of and shall be enforceable by each Tenant Mortgagee as if it were a party named in this lease.
 - (b) *No Merger.* There shall be no merger of this lease, or of the leasehold estate or other interests created by this lease, with the fee estate in the Lands by reason of the fact that this lease or any such interests may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Lands, and all persons (including Tenant Mortgagees) having an interest in or under this lease and any portion of the fee estate shall join in a written instrument effecting such merger and shall duly record the same.

- (c) *Further Amendments; Estoppel Certificates.* Upon request, the Landlord shall:
- i. amend this lease to include any provision reasonably requested by a Tenant Mortgagee, provided such amendment does not materially impair the Landlord's rights or substantially increase the burdens or obligations of the Landlord under this lease, and
 - ii. execute and cause its mortgagees to execute such estoppel certificates (certifying as to such matters as the Tenant or any Tenant Mortgagee may reasonably request, including, without limitation, that no default then exists under this lease, if such be the case), consent to assignment, non-disturbance agreements, acknowledgements, postponements and other additional instruments reasonably requested by the Tenant or any Tenant Mortgagee to evidence that status of this lease and the rights of the Tenant and/or Tenant Mortgagee (as applicable) under this lease.
- (d) *Tenant Mortgagee to Perform.* As a precondition to exercising any rights or remedies related to any alleged default by the Tenant under this lease, the Landlord shall give written notice (a "Notice") of the default to each Tenant Mortgagee at the same time it delivers notice of default to the Tenant, specifying in detail the alleged event of default and the required remedy. Each Tenant Mortgagee shall have the same right to cure any default as the Tenant. The cure period for any Tenant Mortgagee shall be the later of: (i) the end of the cure period specified in this lease; (ii) thirty (30) days after such Tenant Mortgagee's receipt of the default notice; or (iii) if applicable, the extended cure period provided for below. Failure by the Landlord to give a Tenant Mortgagee notice of default shall not diminish the Landlord's rights against the Tenant, but shall preserve all rights of Tenant Mortgagee to cure any default and to remove any property of the Tenant or Tenant Mortgagee located on the Leased Premises. Following acquisition of all or a portion of the Tenant's interest in the Leased Premises by Tenant Mortgagee as a result of either foreclosure or acceptance of any assignment in lieu of foreclosure, or succeeding to the interest of the Tenant under this lease, this lease shall continue in full force and effect and Tenant Mortgagee or party acquiring the interest of the Tenant under 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; provided, however, that Tenant Mortgagee or party succeeding to the interest of the Tenant under this lease shall not be required to cure those defaults which are not reasonably susceptible of being cured or performed by such party including, without limitation, the matters described below relating to the "Tenant's Insolvency" ("Non-Curable Defaults"). Non Curable Defaults shall be deemed waived by the Landlord upon completion of foreclosure proceedings or acquisition of the Tenant's interest in this lease by such party.
- (e) *Tenant Mortgagee Right to Cure.* If any default by the Tenant under this lease cannot be cured without Tenant Mortgagee obtaining possession of all or part of

the Leased Premises, then any such default shall be deemed remedied if a Tenant Mortgagee:

- i. within sixty (60) days after receiving a Notice from the Landlord, acquires possession of all or part of the Tenant's interest in the Leased Premises, or begins appropriate judicial proceedings to obtain same;
- ii. diligently prosecutes any such proceedings to completion; and
- iii. after gaining possession of all or part of the Tenant's interest in the Leased Premises, performs all other obligations as and when the same are due in accordance with the terms of this lease.

If a Tenant Mortgagee is prohibited by any court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the sixty (60) day period specified above for commencing proceedings shall be extended for the period of such prohibition.

(f) *No Obligations.* Any Tenant Mortgagee that does not directly hold an interest in the Leased Premises, or whose interest is held solely for security purposes, shall have no obligation nor liability under this lease prior to the time Tenant Mortgagee succeeds to the Tenant's interests in the Leased Premises and the rights of the Tenant under this lease. A Tenant Mortgagee shall be liable to perform obligations under this lease only for and during the period it has succeeded to the interest of the Tenant in the Leased Premises. Further, in the event that a Tenant Mortgagee elects to

- i. perform the Tenant's obligations under this lease;
- ii. continue operations on the Leased Premises;
- iii. acquire any portion of the Tenant's right, title or interest in all or any of the Leased Premises; or
- iv. enter into a New Lease as provided for below;

then such Tenant Mortgagee shall not have any personal liability to the Landlord in connection therewith, and the Landlord's sole recourse upon a default by such Tenant Mortgagee shall be limited to such Tenant Mortgagee's interest in the Leased Premises.

(g) *Tenant Mortgagee Right to Assign.* A Tenant Mortgagee shall have the absolute right:

- i. to assign its Tenant Mortgage;

- ii. to enforce its security interest and to succeed to the interest of the Tenant in the Leased Premises by any lawful means;
- iii. to take possession of and operate all or any portion of the Leased Premises and to perform all obligations to be performed by the Tenant under this lease, or to cause a receiver or receiver-manager to be appointed to do so; and
- iv. to acquire all or any portion of the Leased Premises by foreclosure or by an assignment in lieu of foreclosure and thereafter, without the Landlord's consent, to assign or transfer all or any portion of the Leased Premises to a third party.

Any Tenant Mortgagee or other party who acquires the Tenant's interest in the Leased Premises pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on the Tenant by this lease which are incurred or accruing after such Tenant Mortgagee or other party no longer has ownership or possession of the Leased Premises. Tenant Mortgagee shall have the absolute right, but not the obligation, to substitute itself for the Tenant and perform the duties of the Tenant hereunder for purposes of curing a default under this lease. The Landlord expressly consents to such substitution, agrees to accept such performance, and authorizes Tenant Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Leased Premises to complete such performance with all of the rights and privileges of the Tenant hereunder.

- (h) *Foreclosure.* If the Leased Premises is foreclosed upon or there is an assignment in lieu of foreclosure, or if this lease is surrendered or disclaimed pursuant to bankruptcy laws or other laws affecting creditor's rights and, within ninety (90) days after such event, the Tenant or any Tenant Mortgagee or other purchaser shall have arranged to the reasonable satisfaction of the Landlord for the payment of all outstanding compensation or other charges due and payable by the Tenant as of the date of such event, then the Landlord shall execute and deliver to the Tenant or such Tenant Mortgagee or other purchaser, or to a designee of one of these parties, as the case may be, a new lease ("New Lease") which
 - i. shall be for a term equal to the remainder of the Term before giving effect to such surrender or disclaimer;
 - ii. shall contain the same covenants, agreements, terms, provisions and limitations as this lease (except for any requirements that have been fulfilled by the Tenant or any Tenant Mortgagee or other purchaser prior to surrender or disclaimer of this lease); and
 - iii. shall include that portion of the Leased Premises in which the Tenant or such other Tenant Mortgagee or other purchaser had an interest on the date of the surrender or disclaimer.

If more than one Tenant Mortgagee makes a written request for a New Lease pursuant to this provision, the New Lease shall be delivered to Tenant Mortgagee requesting such New Lease whose Tenant Mortgage has priority, and the written request of any other Tenant Mortgagee whose lien is subordinate shall be void and of no further force or effect. The provisions of this paragraph shall survive the termination, surrender or disclaimer of this lease and shall continue in full force and effect thereafter to the same extent as if this paragraph were separate and independent agreement made by the Landlord, the Tenant and each Tenant Mortgagee, and, from the effective date of such termination, surrender or disclaimer of this lease to the date of execution and delivery of such New Lease, such Tenant Mortgagee or other purchaser may use and enjoy the Leased Premises without hindrance by the Landlord or any person claiming by, through or under the Landlord; provided that all of the conditions for the New Lease as set forth above are complied with.

ARTICLE 13 - EXPROPRIATION

A. EXPROPRIATION PROVISIONS TERMINATION OF AGREEMENT

If any portion of the Property is taken by expropriation, or is purchased by any government agency or governmental body exercising the power of expropriation or eminent domain, and should such taking render the Leased Premises substantially unusable for the Tenant's permitted uses, then this lease shall terminate upon the vesting of title or taking of possession.

B. AWARDS AND DAMAGES

All payments made on account of any taking by expropriation or eminent domain shall be made to the Landlord, except that the Tenant shall be entitled to any award made for the reasonable removal and relocation costs of the Project that the Tenant has the right to remove, and for the loss and damage to any such Project that the Tenant elects or is required to remove, and for the loss of use of the Leased Premises by the Tenant. It is agreed that the Tenant shall have the right to participate in any settlement or court proceedings. If the parties do not agree upon a division of such award or purchase price, it shall be set by arbitration.

ARTICLE 14 - LIABILITY AND INDEMNIFICATION

A. DISCLAIMER OF INDIRECT DAMAGES

Neither the Landlord nor the Tenant shall be liable to the other party claiming by or through them for any special, indirect, incidental, punitive, exemplary or consequential damages including, but not limited to lost profits or loss of business (save and except as provided in Article 5 - B.2), Article 7 - B.2) and Article 7 - B.3)) arising out of or in any manner connected with the performance or non-performance of this Lease even if the parties have knowledge of the possibility of such damages.

B. MUTUAL INDEMNITY

Subject to Article 14 - A, the Tenant or the Landlord, as the case may be, shall each indemnify and save the other harmless from any and all liabilities, damages, costs, (including legal fees), fines, penalties, claims, suits or actions resulting from or arising with respect to:

- 1) any breach, violation or non-performance of any covenant, obligation or agreement of such party under this Lease;
- 2) any damage to property however occasioned by such party, its officers, agents, employees, contractors, customers, invitees or licensees and any injury to any person or persons, including death resulting at any time therefrom, occurring in or on the Leased Premises, the Property or any part thereof arising from or occasioned by any cause whatever, except where such damage or injury is due to the act, default or negligence of the other, its officers, agents, servants, employees or contractors; and
- 3) any contract, lien, privilege, mortgage, charge or encumbrance of the Leased Premises or the Property or any part thereof, arising from or occasioned by the act, default or negligence of such party, its officers, agents, servants, employees, contractors, customers, invitees or licensees;

and any such indemnification shall survive the termination of this Lease, anything in this Lease to the contrary notwithstanding.

C. SET OFF

In addition to any right of set-off arising at law, the Tenant may set off any amounts owing by the Landlord to it under this Agreement against any Rent owing to the Landlord.

ARTICLE 15 - FORCE MAJEURE

If the Landlord or the Tenant are prevented from performing any act required by this lease due to any acts of God, strike, lock-out, labour trouble, inability to secure materials, restrictive governmental laws or regulations, or for any other reason beyond the control of the party required to perform the act, the time for the performance of the act shall be extended for a period equivalent to the period of delay. A party claiming force majeure shall forthwith notify the other party of the force majeure, and not recourse may be had to this provision to excuse a delay in respect of which such notice has not been given.

ARTICLE 16 - NOTICE OF LEASE

The Landlord and the Tenant hereby agree that this Lease shall not be registered in any land registry office, provided that either party shall be entitled to register a notice of this Lease in the applicable land registry office wherein a legal description of the Lands, an outline of the Leased Premises, the term and certain other terms and provisions hereof, excepting, however, the provisions hereof relating to the amount of rent payable hereunder, are set forth. Any

registration fees payable in connection with the registration of the notice of this Lease, or with the discharge of such registration upon termination of the Lease, shall be the Tenant's responsibility.

ARTICLE 17 - GENERAL

A. NOTICE

Any notice, demand or request which any party shall give to any other party shall be in writing and may be delivered mailed by registered mail or sent by telephone or similar telecommunication device and shall be deemed:

- 1) in the case of delivery, to have been given when the same is personally delivered to the addressee at the address hereinafter set forth;
- 2) if addressed to such party at its address as set forth hereafter or to such other address as such party may by notice in writing furnish to the parties seeking or desiring to give notice as a place for the giving of notice,
- 3) in the case of dispatch by registered mail, except during a postal disruption, to have been duly given at 5:00 in the afternoon (local time to the sender) on the second (2nd) day after the day the same was deposited in a public post box or post office (on the first business day thereafter if such second day is not a business day);
- 4) in the case of dispatch by telecopier or similar telecommunication device to have been deemed received on the business day following date of confirmed transmission.

and shall be addressed, if to the Landlord as follows:

106 Avenue Road
Toronto, M5R 2H3
Ontario

Fax: 416-920-7851

and if to the Tenant as follows:

106 Avenue Road
Toronto, M5R 2H3
Ontario

Fax: 416-920-7851

B. ESTOPPEL CERTIFICATES

The Landlord and the Tenant agree that they shall, at any time and from time to time during the term of this lease, within ten (10) days of a written request by the other party, execute,

acknowledge and deliver to the requesting party and their respective lender(s) a statement in writing certifying that this lease is unmodified and in full force and effect (or modified and stating the modifications). The statements shall also state the dates on which the payments and any other charges have been paid and that there are no defaults existing or that defaults exist and the nature of such defaults.

C. FURTHER ASSURANCES

Each of the parties to this Lease agrees to perform (or cause to be performed) all such acts (including but not limited to, executing and delivering such instruments and documents) as may be necessary or desirable to fully effectuate each and all of the purposes and intent of this Lease.

D. NO WAIVER

No waiver of any right under this lease shall be effective for any purpose unless in writing, signed by the party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provision of this lease. The waiver of time for performing any act shall not constitute a waiver of the time for performing any other act or any identical act required to be performed at a later time.

E. TIME OF ESSENCE

Time is of the essence in regard to this lease and to all the terms, conditions, promises, representations, warrants, duties, obligations, and agreements contained in this lease.

F. CONSTRUCTION OF AGREEMENT

- 1) **Governing Law.** The terms and provisions of this lease shall be interpreted and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Subject to Article 17 - G, the parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario.
- 2) **Planning Act.** This lease is entered into subject to the express condition that it is to be effective only if the applicable provisions of the *Planning Act* (Ontario) or any statute that may be substituted therefor, as from time to time amended, are complied with.
- 3) **Interpretation.** The parties agree that the terms and provisions of this lease embody their mutual intent and that such terms and conditions are not to be construed more liberally in favour, or more strictly against, either party.
- 4) **Partial Invalidity.** If any term, provision, condition, or part of this lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms, provisions, conditions, or parts, or application thereof to any person or circumstance shall continue in full force and effect, unless the invalidity or unenforceability in question causes the primary intention of the parties under this lease to be frustrated.

- 5) **Headings.** The section and paragraph headings in this lease are for convenience only and shall not limit or affect the meaning of this lease in any way.
- 6) **Approvals or Consents.** Whenever any party to this Lease is given an approve/consent right and unless otherwise expressly stated in this Lease, any such approval/consent shall not unreasonably be withheld or delayed. If any such approval is not granted or expressly denied within thirty (30) days of the date on which the request is delivered, then approval shall be deemed granted. If approval is withheld, the withholding party shall state in writing with particularity the reason or reasons for the withholding of approval and shall propose conditions or changes that would facilitate approval.

G. DISPUTE RESOLUTION

If at any time any differences shall arise between the Landlord and the Tenant under this lease, then the same shall, upon notice by either the Landlord or the Tenant to the other that such a difference exists, be referred to arbitration under such rules and in such time and place as the Landlord and the Tenant shall mutually agree; provided that to the extent that agreement upon such arbitration is not reached, the arbitration shall be by a single arbitrator selected by the Landlord and the Tenant, which failing such selection for 30 days after such notice, either party may apply to a judge of The Superior Court of Justice (Ontario) to appoint an arbitrator; any such single arbitrator shall be and any such arbitrator so selected or appointed shall be reasonably experienced in the business in which the Landlord and the Tenant are involved; the place for arbitration shall at the convenience of the arbitrator be at any place within the Province of Ontario and the award and determination of such arbitrator shall be made by a written report promptly to the Landlord and the Tenant and shall be final and binding upon the parties hereto. The costs of such arbitration shall be borne equally by the parties.

H. CONFIDENTIALITY

- 1) **Confidential Information.** For the purposes of this Lease:
 - (a) **"Endura Confidential Information"** shall include any and all data and information in any format or form, electronic, written or oral, relating to the business, affairs or operations of the Tenant or the design, installation and operation of the Project, which at any time may be communicated or revealed (whether or not prior to this Lease) to the Landlord by the Tenant or may be observed by the Landlord, its employees, subcontractors or agents on the Leased Premises, including, but not limited to the Preliminary Design and other engineering drawings or information that must be disclosed pursuant to this Lease or that is disclosed by the Tenant when seeking an approval of the Landlord under this Lease; and
 - (b) **"Confidential Terms"** shall mean the terms and conditions of this Lease and any discussions or negotiations in connection with this Lease.

but neither Endura Confidential Information nor Confidential Terms will include information which: has rightfully been in the possession of the receiving party prior to the date of disclosure of such information by the disclosing party; has been in the public domain prior to the date of disclosure of such information by the disclosing party; later becomes part of the public domain by publication or by other means except by means of an unauthorized act or omission on the part of the receiving party; is lawfully obtained by the receiving party from a third party independent of the disclosing party who, to the knowledge of the receiving party, is not under any obligation of confidence to the disclosing party; or is required to be disclosed by order of a court or governmental or regulatory authority.

- 2) **Confidentiality.** Each of the Landlord and the Tenant agrees to maintain the confidentiality of the Confidential Terms and, in the case of the Landlord, the Endura Confidential Information, taking commercially reasonable steps at least equivalent of those which it takes in respect of its own confidential information; provided however that the party may provide Confidential Terms or Endura Confidential Information only to those of its directors, officers, employees, legal and accounting advisors, agents or representatives and to its insurers and lenders who need to know such information so as to enable the Landlord to discharge its rights and obligations under this Lease, provided that such persons agree to maintain the confidentiality of such information and that only the information specifically required is disclosed.
- 3) **Breach.** The Landlord agrees that a breach of any of the covenants set out herein shall have material adverse consequences to the Tenant and that damages arising from the said breach may be difficult to quantify. Accordingly, the Landlord agrees that should it, or any of its representatives, breach any provision herein, in addition to any other right or remedy at law or in equity, the Tenant shall be entitled to an immediate injunction or other appropriate order to restrain any such breach by the Landlord without quantifying the damage sustained by the Tenant.

I. MARKETING OF SOLAR PROJECT

Either party may market or publicise the Project at the Property or the presence of the solar panels on the rooftop of the Building as an environmental or green initiative, provided that all such marketing and publicity is approved in advance by the other party, acting reasonably.

J. ANCILLARY BENEFITS OF PROJECT

As between the Landlord and the Tenant, the Tenant is entitled to: any tax incentives or credits arising from the Project; all electricity generated by the Project; and any environmental attributes, including but not limited to carbon credits or offsets or renewable generating certificates, (and any proceeds from the sale of same) associated with or arising from the operation of the Generating Facility.

K. ENTIRE AGREEMENT

This lease, together with its attached exhibits, contains the entire agreement between the Landlord and the Tenant and supersedes and replaces any prior agreements, discussions or understandings, written or oral between the Landlord and the Tenant pertaining in any way to this lease. This lease cannot be modified except in writing signed by both the Landlord and the Tenant or their authorized representatives.

L. COUNTERPARTS

This Lease may be executed in one or more counterparts, which may be delivered by facsimile transmission or other electronic communication, each of which is an original and all of which together constitute a single agreement.

IN WITNESS WHEREOF, the Landlord and the Tenant have caused this lease to be executed and delivered by their authorized representatives.

Tenant: **GENTERRA ENERGY INC.**

By: /s/ Mark Litwin
Name: Mark Litwin

Landlord: **GENTERRA CAPITAL INC.**

By: /s/ Stan Abramowitz
Name: Stan Abramowitz

SCHEDULE A

**450 Dobbie Drive, Cambridge, ON and legally described as PLAN 1135 PT LOT 55 RP
67R1030 PART 1 IRREG, CITY OF CAMBRIDGE**

SCHEDULE B



The Generating Facility is to be erected within the outlined area utilizing a solution area approximating 120,000 square feet