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08-AFC-5	
DATE	<u>AUG 13 2010</u>
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August 13, 2010

Mr. Christopher Meyer
Project Manager
Attn: Docket No. 08-AFC-5
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Imperial Valley Solar (formerly Solar Two) (08-AFC-5)
Applicant's Submittal of Hossein Alimamaghani Option to Ground
Lease Redacted

Dear Mr. Meyer:

On behalf of Imperial Valley Solar (formerly Solar Two), LLC, URS Corporation Americas (URS) hereby submits Hossein Alimamaghani Option to Ground Lease Redacted.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to submit on behalf of Imperial Valley Solar, LLC.

Sincerely,

Angela Leiba
Project Manager

AL: ml

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OPTION TO GROUND LEASE

Hossein Alimamaghani,
Optionor

IMPERIAL VALLEY SOLAR, LLC,
a Delaware limited liability company
Optionee

DATE: July 21, 2010

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OPTION TO GROUND LEASE

THIS OPTION TO GROUND LEASE (the “**Agreement**”) is entered into as of July 21, 2010, (the “**Execution Date**”) between Hossein Alimamaghani (the “**Optionor**”), and Imperial Valley Solar, LLC (formerly known as SES Solar Two LLC), a Delaware limited liability company, 1001 McKinney Street, Suite 1730, Houston, TX 77002 (“**Optionee**”) (collectively, the “**Parties**”).

RECITALS

A. Optionor owns certain real property in the unincorporated area of Imperial County, California consisting of approximately One Hundred and Sixty (160) gross acres of land located in Section 16, Township 16 South, Range 11 East, which is more particularly described in Exhibit “A” attached hereto, excluding any water rights related thereto (which are reserved to Landlord as set forth herein) (the “**Property**”).

B. Optionee desires to acquire from Optionor, and Optionor desires to grant to Optionee, an option to lease the Property according to the terms set forth in the ground lease (the “**Ground Lease**”), attached to this Agreement as Exhibit “B.” Optionee intends to construct on the Property a solar power project on land nearby or adjoining the Property (the “**Project**”).

C. The Property is currently subject to certain covenants, conditions, easements, restrictions and other matters of record, including, but not limited to, an easement, right of way or other encumbrance pursuant to which high tension electric wires, roads and other associated improvements and facilities are on the Property (“**Existing Encumbrances**”);

D. Optionee is also aware that San Diego Gas & Electric (“SDG&E”) and other entities have or are in the process of acquiring an easement, right of way, fee title or other encumbrance on the Property, which will affect approximately thirteen and one half (13.5) of additional acres of the Property (“**Proposed Encumbrance(s)**”). The Existing Encumbrances and the Proposed Encumbrances are hereafter collectively referred to as “Encumbrance(s).”

NOW, THEREFORE, in consideration of the representations, warranties, agreements and conditions set forth below, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Option to Lease the Property.**

1.1 **Option.** Optionor hereby grants to Optionee an option to lease the Property upon the terms and conditions set forth in the Ground Lease (the “**Option**”).

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]

1.3 **Option Price Qualifications.**

(a) Optionee may only elect to terminate the Option at any time after the payment of

[REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED] on or before when due shall automatically terminate the Option without notice to Optionee.

(e) [REDACTED]

2. **Exercise of Option.**

Optionee may only exercise the Option by delivering Optionor written notice that the Option is exercised without condition or qualification (the “**Exercise Notice**”) accompanied by (i) two (2) original copies of the Ground Lease, completed and signed by Optionee.

3. Optionor's Execution of Ground Lease.

Once Optionor receives the documents required by Section 2 above, Optionor shall promptly execute the Ground Lease and deliver an executed copy to Optionee. Optionor's failure to execute and deliver a copy of the Ground Lease in accordance with this Agreement shall not affect the validity of the Ground Lease. The Ground Lease shall be immediately effective and binding on both Optionor and Optionee without further execution by the parties, upon timely exercise of the Option in strict accordance with Section 2 hereof.

4. Memorandum of Option.

Upon, or after, execution of this Option, the Parties shall execute in recordable form and deliver to Orange Coast Title Company, 640 North Tustin, Santa Ana, California (the "**Title Company**") the "Memorandum of Option" in the form attached as **Exhibit "C"**. The Memorandum of Option may only be recorded on the later of receipt by Optionor of the final installment of the Option Price, or January 1, 2011. The Title Company shall record the Memorandum of Option; provided, however, the party requesting to record the Memorandum of Option shall pay the costs associated with such recording. Simultaneous with the Parties' execution of the Option and the accompanying Memorandum of Option, Optionee shall deliver to Optionor a quitclaim deed executed and acknowledged by Optionee in favor of Optionor, conveying to Optionor any right, title or interest in the Property created, owned or held by Optionee resulting from the execution of the Option and execution and recordation of the Memorandum of Option. The quitclaim deed shall be held by Optionor, shall be of no force or effect if the Option is properly and timely exercised, and shall not be recorded unless the Option is not exercised prior to the expiration or earlier termination of the Option Term. Optionor shall have the right to record the quitclaim deed upon the expiration or earlier termination of the Option, or Optionee's failure to timely and properly exercise the Option.

5. Initial Option Term, Extended Option Term.

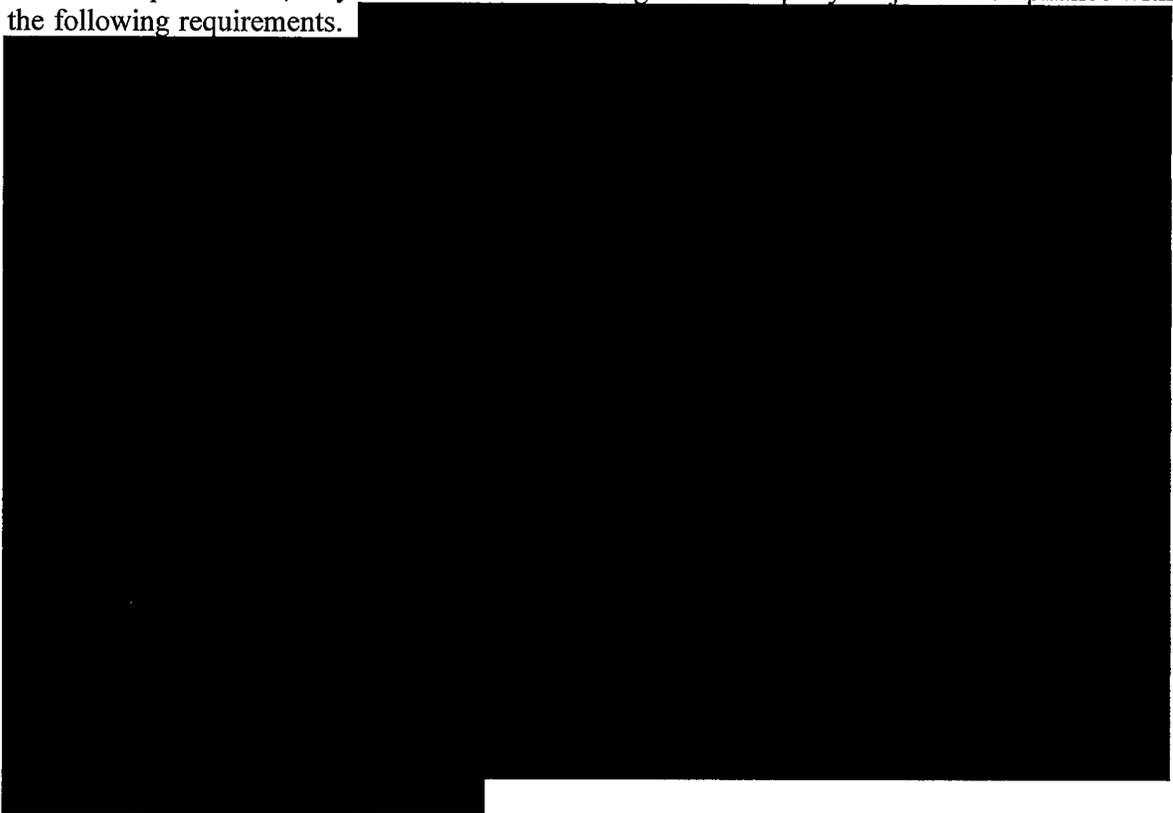
5.1 Initial Option Term. The term of the Option (the "**Initial Option Term**") shall commence on the Execution Date (as set forth above) and shall terminate at 5:00 p.m. California time on March 23, 2011 unless it is sooner terminated as specified in Section 1.3, above. Optionee shall have the right to extend the Option Term one time for an additional twelve (12) full calendar months (resulting in an Option Term of twenty-four (24) months) (the "**Extended Option Term**"), upon delivery to Optionor, prior to the expiration of the original Option Term, (i) the sum of [REDACTED] (ii) written notice (the "**Extension Notice**") of Optionor's desire to unconditionally extend the Option Term.

6. Due Diligence.

6.1 Activities Described. During the Initial Option Term and, if applicable, the Extended Option Term, Optionee shall have the right to enter upon the Property to conduct, at Optionee's sole cost and expense, a diligent, prudent, and confidential inspection and exploration of the potential development of the Property by examining, testing, and surveying the Property (the "**Due Diligence**"). The Due Diligence may include, but shall not be limited to, examination of title, site survey, availability of building permits for construction of Optionee's work, zoning

or use restrictions, present and future access, geological and environmental testing, drainage conditions on the Property; excessive levels of radon, toxic waste, hazardous substances including, but not limited to, asbestos or other undesirable substances, and any other condition or circumstance which may adversely affect the Property, or Optionee's use of or operations on the Property. Optionee shall order a title report of the Property and provide a copy of such title report at no charge to Optionor within thirty (30) days after Optionee's receipt of such title report.

6.2 Invasive Testing. Optionee, during the Initial Option Term and, if applicable the Extended Option Term, may conduct invasive testing on the Property subject to compliance with the following requirements.



6.3 Insurance. Prior to commencing any work on the Property and at all times thereafter during the Option term, Optionee shall, at Optionee's sole cost and expense, maintain worker's compensation and commercial general liability insurance policies to cover any activities on the Property under this Section 6.

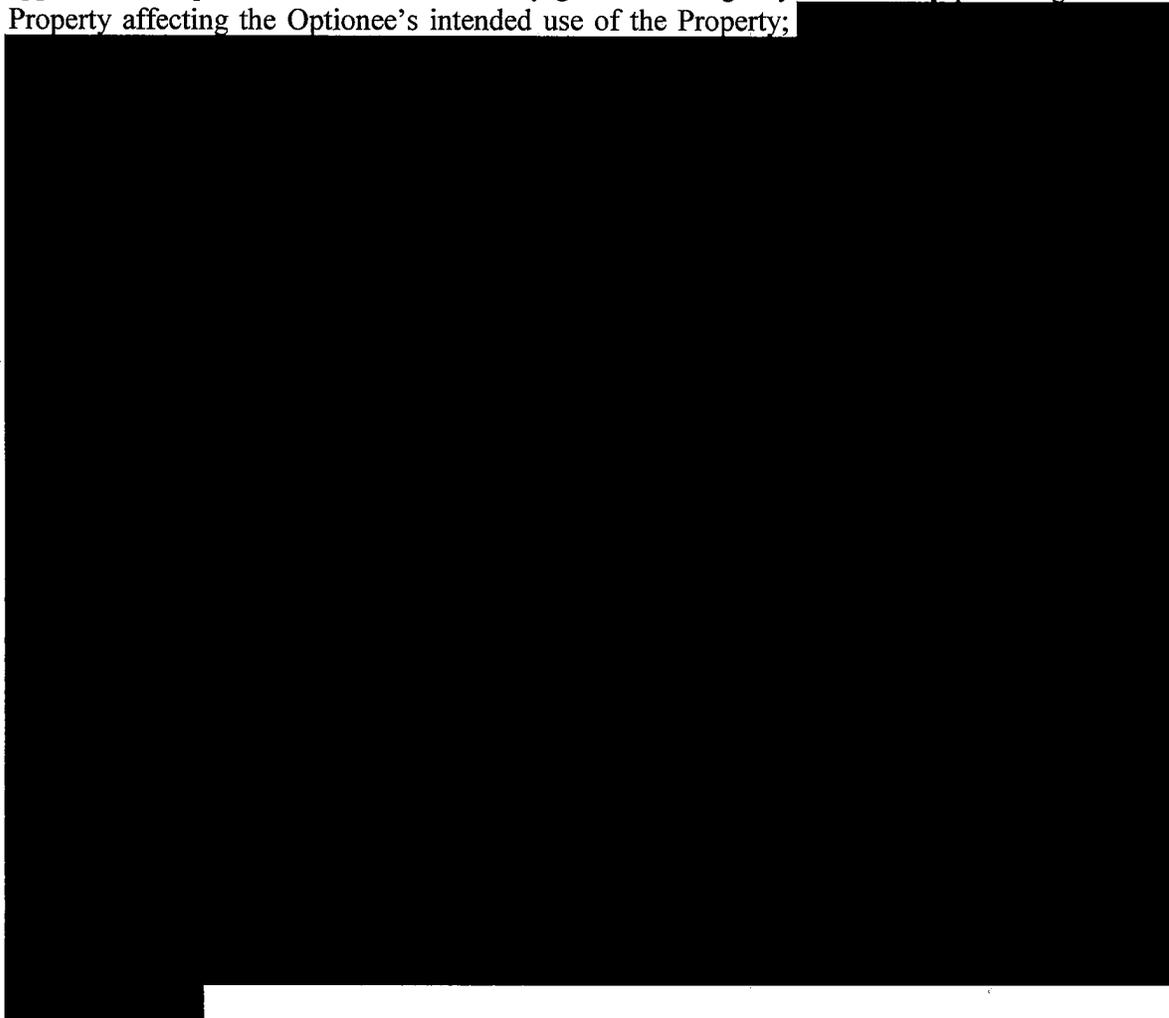


6.4 Indemnity. Optionee shall indemnify and defend Optionor against and hold Optionor harmless from all claims, demands, actions, lawsuits, liabilities, losses, damages, fines,

penalties, costs, expenses, and fees (including reasonable attorneys' fees) and disbursements, arising from (i) any entry on the Property by Optionee or any of Optionee's representatives, contractors, employees or invitees; and (ii) any breach of the covenant in Section 6.2 above. The foregoing indemnification covenant shall survive any termination of this Agreement.

6.5 Restoration. In the event Optionee does not exercise the Option, Optionee, at its sole cost and expense, shall restore the Property to its condition prior to Optionee's Due Diligence activities.

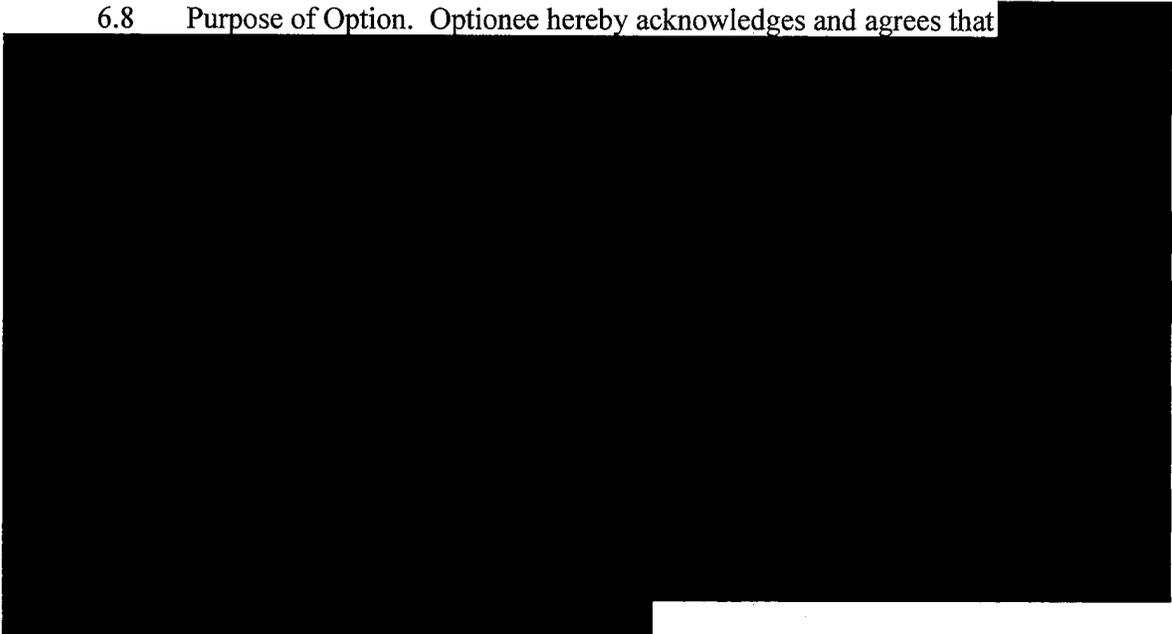
6.6 Optionor's Cooperation. Optionor agrees to, at no cost or expense to Optionor, reasonably cooperate with Optionee during the Option Term, including, but not limited to, (i) providing permission for allowing Optionee access to records held by any and all government agencies and authorities, (ii) to photocopy all related documents which, to Optionor's knowledge, may be in Optionor's possession relating to the Property, and (iii) in executing any applications required to be submitted to any government agency or authority presiding over the Property affecting the Optionee's intended use of the Property;



6.7 Delivery of Documentation. Irrespective of Optionor's election to exercise the Option, only upon Optionor's request, shall Optionee at no charge to Optionor deliver to

Optionor any documents, surveys or reports pertaining to the physical condition (including, without limitation, surveys or reports regarding environmental matters) pertaining to the Property; provided, however, that nothing in this Agreement shall require Optionee to deliver to Optionor any documents of a proprietary or confidential nature or documents containing information pertaining to trade secrets of Optionee or any third party pertaining to a Project.

6.8 Purpose of Option. Optionee hereby acknowledges and agrees that



7. Representations and Warranties.

7.1 **Optionor.** As of the Execution Date, Optionor hereby represents and warrants to Optionee that:

(a) It has the full right and authority to enter into this Agreement and to consummate the transactions contemplated hereunder;

(b) Subject to the Encumbrances, it is the owner of the Property and to Optionor's knowledge, except for the Encumbrances, the Property is not subject to any unrecorded liens, claims or encumbrances.

(c) Except for the Encumbrances, Optionor has not entered into any rights of first refusal or similar rights to purchase with respect to the Property with any third party;

(d) This Agreement, when executed and delivered by Optionor and Optionee, will constitute the valid and binding agreement of Optionor, enforceable against Optionor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy and other similar laws relating to creditors' rights;

(e) Except for the Encumbrances, there are no actions, suits, claims, assessments or proceedings pending or, to the actual knowledge of Optionor, threatened in

writing that could materially adversely affect the ownership of the Property by Optionor or Optionor's ability to perform hereunder;

(f) To Optionor's actual knowledge, without any investigation of any kind, nature or description, the Property has not been the site of any activity that would violate any past or present environmental law or regulation of any governmental body or agency having jurisdiction over the Property.

(g) Subject to the Encumbrances and other matters of record, Optionor has not entered into any leases or other unrecorded agreements pertaining to the Property.

7.2 Optionee. Optionee hereby represents and warrants to Optionor that:

(a) It has the full right and authority to enter into this Agreement and to consummate the transactions contemplated hereunder;

(b) This Agreement, when executed and delivered by Optionee and Optionor, will constitute the valid and binding agreement of Optionee, enforceable against Optionee in accordance with its terms, except as enforceability may be limited by applicable bankruptcy and other similar laws relating to creditors' rights;

(c) There are no actions, suits, claims, assessments or proceedings pending or, to the actual knowledge of Optionee, threatened in writing that could materially adversely affect Optionee's ability to perform its obligations under this Agreement; and

(d) Optionee has substantial experience with real property; and Optionee is or will be leasing the Property in an "AS IS, WHERE IS" basis and condition, with all faults, whether known or unknown;

(e) Except as otherwise expressly provided in this Option, neither Optionor nor any of Optionor's agents have made any representations or warranties of any kind, nature or description, direct or implied, verbal or written, with respect to the Property or the Property Information;

(f) Optionee is and will be relying upon Optionee's own independent investigation of the Property and Property Information in entering into this Agreement and exercising the Option to Lease the Property;

(g) If Optionee fails, decides or elects not to perform any investigation, inspection or review of the Property or the Property Information, Optionee is doing so at Optionee's own risk, and Optionee is accepting and assuming all risks associated therewith.

8. Covenants.

From the Execution Date until Optionee exercises the Option or the Option terminates or expires.

8.1 Optionor shall:

Either party hereto may change its address for notice by giving three (3) days' prior written notice to the other party.

10. Assignment.

10.1 Assignment Authorized. This Agreement, and the rights, obligations and interests arising hereunder may be assigned by Optionee

[REDACTED]

10.2

[REDACTED]

10.3

[REDACTED]

11. Agreement Binding on Successors And Assigns.

11.1 Benefits And Obligations. Subject to Sections 10 and 11, this Agreement shall inure to the benefit of and be binding on the Parties and their respective successors and permitted assigns.

12. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of California.

13. Entire Agreement.

This Agreement is the entire agreement between Optionor and Optionee concerning the subject matter hereof, and no modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on either party unless reduced to writing and signed by the party to be bound. All exhibits attached hereto are incorporated herein by this reference for all purposes.

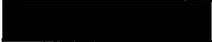
14. Broker's Fees.

No broker fees are due or payable to any person or entity in connection with the transaction described in this Agreement. [REDACTED]



15. **No Third Party Beneficiaries to Agreement.**

This Agreement is for the sole benefit of Optionor and Optionee and no third party is intended to be a beneficiary of this Agreement.

16. 



17. **Time of Essence.**

Time is of the essence of each and every term, condition, obligation and provision hereof.

18. **Counterparts.**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

19. **Amendment to this Agreement.**

The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto. No subsequent agreement, representation or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party, shall be of any effect unless it is in writing and executed by the party to be bound thereby.

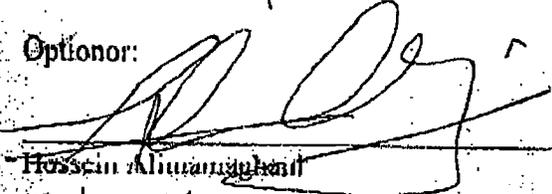
20. **Waiver.**

The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, this Agreement has been executed as of the Execution Date.

Optionor:


~~Hossain Aliurrahman~~
July 21, 2010

Optionee:

Imperial Valley Solar LLC (formerly known as
SES Solar Two LLC)
a Delaware limited liability company

Signature

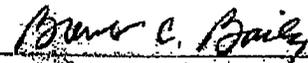

~~Brent C. Bailey~~
Brent C. Bailey
Its VP & GENERAL COUNSEL

Exhibit A

Legal Description of Property

THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 16 SOUTH, RANGE 11 EAST, S.B.M., IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF. (APN: 034-360-57)

Exhibit B

Form of Ground Lease Agreement

Exhibit C

Memorandum of Option

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Optionee

Address

MEMORANDUM OF OPTION TO GROUND LEASE

This memorandum gives notice of that certain Option To Ground Lease dated _____, 2010 ("Option"), between Hossein Alimamaghani ("Optionor"), and Imperial Valley Solar, LLC ("Optionee"), concerning the premises in the unincorporated area of the County of Imperial, California, which premises are more particularly described in Exhibit "A" attached hereto and made a part hereof by reference (excluding any water rights related thereto [which are reserved to Optionor as set forth therein]) (the "Property").

For good and valuable consideration, Optionor has granted to Optionee an Option to lease the Property.

In the event the Option is exercised, the term of the lease, including the extension option, will not exceed thirty five years.

This memorandum is not a complete summary of the Option. In the event of conflict between this memorandum and the Option, the Option shall control.

Executed at _____, on _____, 2010.

OPTIONOR:

Hossein Alimamaghani

OPTIONEE:

Imperial Valley Solar, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On this ____ day of _____, 2010, before me, _____, Notary Public personally appeared _____ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____, _____ of Imperial Valley Solar, LLC, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public in and for the State of Texas

GROUND LEASE

Hossein Alimamaghani,

as Landlord

And

IMPERIAL VALLEY SOLAR, LLC,

a Delaware limited liability company
as Tenant

GROUND LEASE

THIS GROUND LEASE (this "**Lease**") is made and entered into as of this ____ day of _____, 20__, by and between Hossein Alimamaghani (herein referred to as "**Landlord**") and Imperial Valley Solar, LLC (formerly known as SES Solar Two LLC), a Delaware limited liability company (herein referred to as "**Tenant**") (Landlord and Tenant are sometimes individually referred to as "**Party**," or collectively as "**Parties**") is entered into with reference to the following:

Recitals

A. Landlord owns certain property located in the unincorporated area of Imperial County, California, consisting of approximately One Hundred and Sixty (160) gross acres, the legal description of which is attached hereto as Exhibit "A", excluding any water rights related thereto (which are reserved to Landlord as set forth herein) (the "**Property**"), with respect to which Landlord granted to Tenant an option to ground lease the Property pursuant to an Option to Ground Lease dated _____, 2010 ("**Option**").

B. Tenant, having duly exercised the Option, by this Lease hereby leases the Property to construct thereon solar collection assemblies constituting a portion of a solar electric power system or, as Tenant deems appropriate, facilities related to said solar electric power system (the "**Project**"). By exercising the Option Tenant has unconditionally accepted the condition of the Property and all aspects related thereto.

C. The Property is currently subject to certain covenants, conditions, easements, restrictions and other matters of record, including, but not limited to, an easement, right of way or other encumbrance pursuant to which high tension electric wires, roads and other associated improvements and facilities are on the Property ("**Existing Encumbrances**");

E. Tenant is also aware that San Diego Gas & Electric ("**SDG&E**") and other entities have or are in the process of acquiring an easement, right of way, fee title or other encumbrance on the Property, which will affect approximately thirteen and one half (13.5) of additional acres of the Property ("**Proposed Encumbrance(s)**"). The Existing Encumbrances and the Proposed Encumbrances are hereafter collectively referred to as "**Encumbrance(s)**".

NOW, THEREFORE, in consideration of the rents, covenants and conditions herein set forth, Landlord and Tenant do hereby covenant, promise and agree as follows:

I. Definitions.

A. **Purpose of Definitions.** The following terms and phrases, when used herein with initial capitalization, whether in the singular or plural, shall have the meanings specified in this Section I.

1. **Annual Rent:** Annual Rent shall mean the applicable Pre-COD Rent and/or Post-COD Rent due for any given twelve month period of this Lease.

2. **Additional Rent:** Shall mean all amounts due to be paid by the Tenant under this Lease other than the Annual Rent.
3. **Approving Party:** Approving Party shall have the meaning described in Section XXX.
4. Intentionally Deleted.
5. **COD:** COD shall mean the Commercial Operation Date of the Project as determined pursuant to the Master Power Purchase Agreement dated April 31, 2005, as amended from time to time, between Tenant and San Diego Gas and Electric Company, setting forth the date on which commercial operation of the Project has been achieved. Tenant shall provide Landlord written notice of COD not later than 30 days after the date COD is achieved.
6. **Default Rate:** Default Rate shall have the meaning described in Section II.D.2 hereof.
7. Intentionally Deleted.
8. Intentionally Deleted.
9. **Force Majeure:** Force Majeure shall have the meaning described in Section XXXI.
10. Intentionally Deleted.
11. **Leasehold Mortgage:** Leasehold Mortgage shall mean a mortgage of the Property and/or Tenant's leasehold interest under this lease, as described in Section XIII.C.1.
12. **Leasehold Mortgagee:** Leasehold Mortgagee shall mean the party holding the Leasehold Mortgage.
13. **Leasehold Mortgage Cure Period:** Leasehold Mortgage Cure Period shall have the meaning described in Section XIII.E.1.d.
14. Intentionally Deleted.
15. **Option:** Option or Option Agreement shall mean that certain Option to Ground Lease between Landlord and Tenant dated May 14, 2010.
16. **Possession Date:** Possession Date, unless otherwise agreed in writing between Landlord and Tenant, shall mean the tenth (10th) calendar day after the Landlord has received written notice from Tenant, in the manner set forth in the Option Agreement, that Tenant is exercising its Option to lease the Property. On or before the Possession Date, Landlord shall have vacated the Property, and from and after the Possession Date, Tenant shall have all the right to possession of the Property, as set forth in this Lease.

17. **Post-COD Rent:** Post-COD Rent shall mean the amount

[REDACTED]

18. **Post-COD Rent Commencement Date:** Post-COD Rent Commencement Date shall mean the first day of the month in which COD is achieved.

19. **Post-COD Term:** Post-COD Term shall have the meaning described in Section II.B.2.a.

20. **Pre-COD Rent:** Pre-COD Rent shall mean the amount

[REDACTED]

21. **Pre-COD Rent Commencement Date:** Pre-COD Rent Commencement Date shall mean the first day of the month following the month in which the Possession Date occurs.

22. **Pre-COD Term:** Pre-COD Term shall have the meaning described in Section II.B.1.a.

23. **Project:** Project shall have the meaning set forth in the Recitals.

24. **Project Improvements:** Project improvements shall mean facilities related to a solar electric power system constructed by Tenant on the Property.

25. **Rent:** Rent shall mean Annual Rent and Additional Rent.

26. **Taxes:** As used herein, the term "Taxes" shall include any form of real estate tax or assessment,

[REDACTED]

[REDACTED]

27. **Tenant Extension Notice:** Tenant Extension Notice shall have the meaning described in Section II.B.2.b.(1).

28. Intentionally Deleted.

29. **Term:** Term shall mean the period of time Tenant leases the Property, as described in Section II.B.

II. Lease of Property

A. Lease: Landlord hereby demises and leases the Property to Tenant, and Tenant hereby hires and leases the Property from Landlord, for the Term, at the rentals and upon all of the conditions hereafter set forth. Any statement of size (acreage, square footage or otherwise) of the Property set forth in this Lease, or that may have been used in calculating rental, is an approximation which Landlord and Tenant agree is reasonable and the rental based thereon is not subject to revision, whether or not the actual size of the Property is more or less. Tenant acknowledges and agrees that (i) the rental and other amounts required to be paid by Tenant is not subject to reduction or adjustment if and when the Proposed Encumbrances take effect or occurs, (ii) the rental amount and other terms of this Lease were agreed upon based on the assumption that the Proposed Encumbrance would occur or have taken place, (iii) Landlord has not made any representation or warranty to Tenant as to whether and when the Proposed Encumbrance may take place or any other matters associated therewith, (iv) occurrence of the Proposed Encumbrance is a benefit for operation of the Project by Tenant, even though a part of the Property may no longer be available to be used by Tenant as a result of the Proposed Encumbrance, and (v) the Lease shall continue in full force and effect, notwithstanding the fact that the Proposed Encumbrance takes place or becomes effective or does not take place or for any reason does not become effective.

B. Term:

1. **Pre-COD Term.** The Pre-COD Term shall commence upon the Possession Date and shall continue until the last day of the thirty sixth (36th) calendar month thereafter, unless COD is achieved prior to the expiration of such thirty-six (36) month period, in which event the Term shall commence on the date thereof. If, notwithstanding Tenant's commercially reasonable efforts, the Project has not achieved COD prior to the expiration of the Pre-COD Term due to circumstances beyond Tenant's control, and Tenant is not then in default hereunder, Tenant, by giving Landlord written notice of its election prior to the expiration of the Pre-COD Term, may elect to terminate the Lease and Tenant shall have no right to a refund of any Rent paid for the period which is allocated to the period after such termination; provided, however, such termination shall not relieve Tenant of Tenant's obligation to pay the Annual Rent until such termination date. In the event Tenant elects to terminate the Lease, Tenant shall deliver a quitclaim deed to Landlord in accordance with Section XXIV.A of this Lease. Upon determination of the Possession Date, Landlord and Tenant shall execute an amendment to this

Lease to confirm and memorialize the commencement and expiration dates of the Pre-COD Term and the Post-COD Term.

2. Post COD Term:

a. Term

(1) The Post-COD Term shall commence upon the earlier of (i) Tenant's achievement of COD, or (ii) the expiration of the Pre-COD Term (without an election by Tenant to terminate the Lease) and shall continue for a period until December 31st of the twentieth (20th) year thereafter, unless Tenant exercises the option to extend the Term, as provided in this Section II.B.2.b; provided, however, notwithstanding anything to the contrary in this Lease, the total length of the term of this Lease, including the Pre-COD Term, the Post-COD Term, and the Extension Option, shall under no circumstances exceed a total of thirty four years and eleven months.

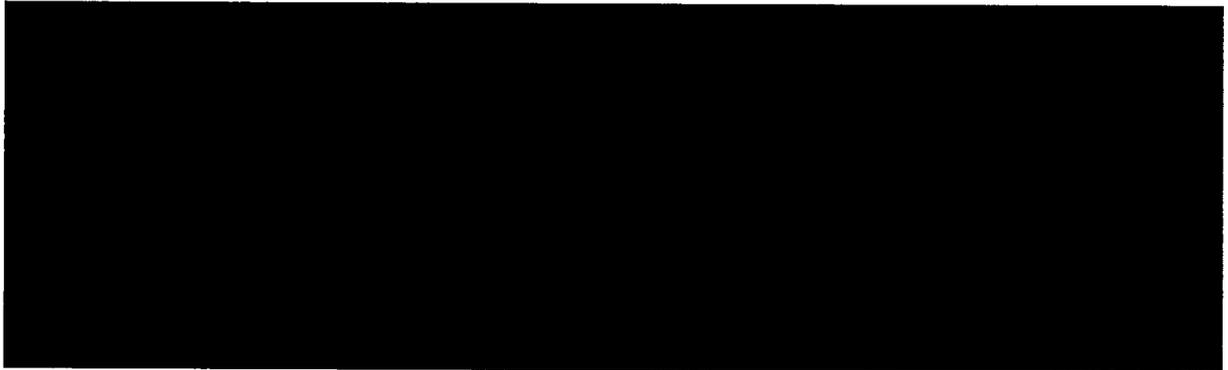
b. Option to Extend

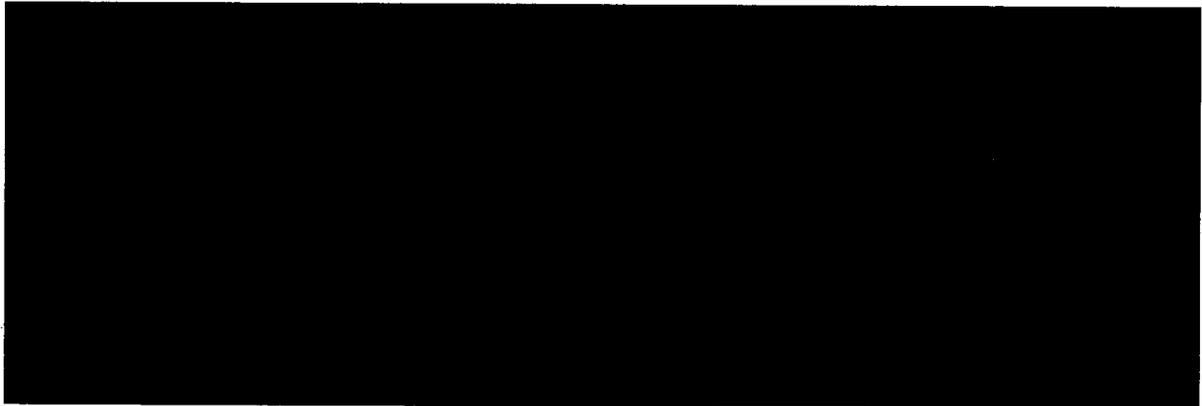
(1) Tenant may, at its option, extend the Term for one (1) Extension Period of ten (10) years (the "Extension Period") by giving notice (the "Tenant Extension Notice"), to Landlord no earlier than fifteen (15) months or later than twelve (12) months prior to the expiration of the Term, provided that at the time of such notice and at the commencement of the Extension Period, no uncured Event of Default exists and is continuing on the part of Tenant. Excepting rent, which rent shall be increased as set forth herein, all terms and conditions of the Lease shall continue in full force and effect during the Extension Period.

(2) The option for the Extension Period ("Extension Option") is personal to the original Tenant named in this Lease, and cannot be voluntarily or involuntarily assigned to exercised by any person or entity other than (i) the original Tenant, (ii) any person or entity to whom this Lease may be assigned without Landlord's consent, or (iii) any person or entity to whom this Lease is assigned with Landlord's consent in accordance with the terms of this Lease. The Extension Option is not assignable separately from a permitted assignment of this Lease, and cannot be assigned separately or apart therefrom. The Extension Option may not be separated from this Lease in any manner, by reservation or otherwise.

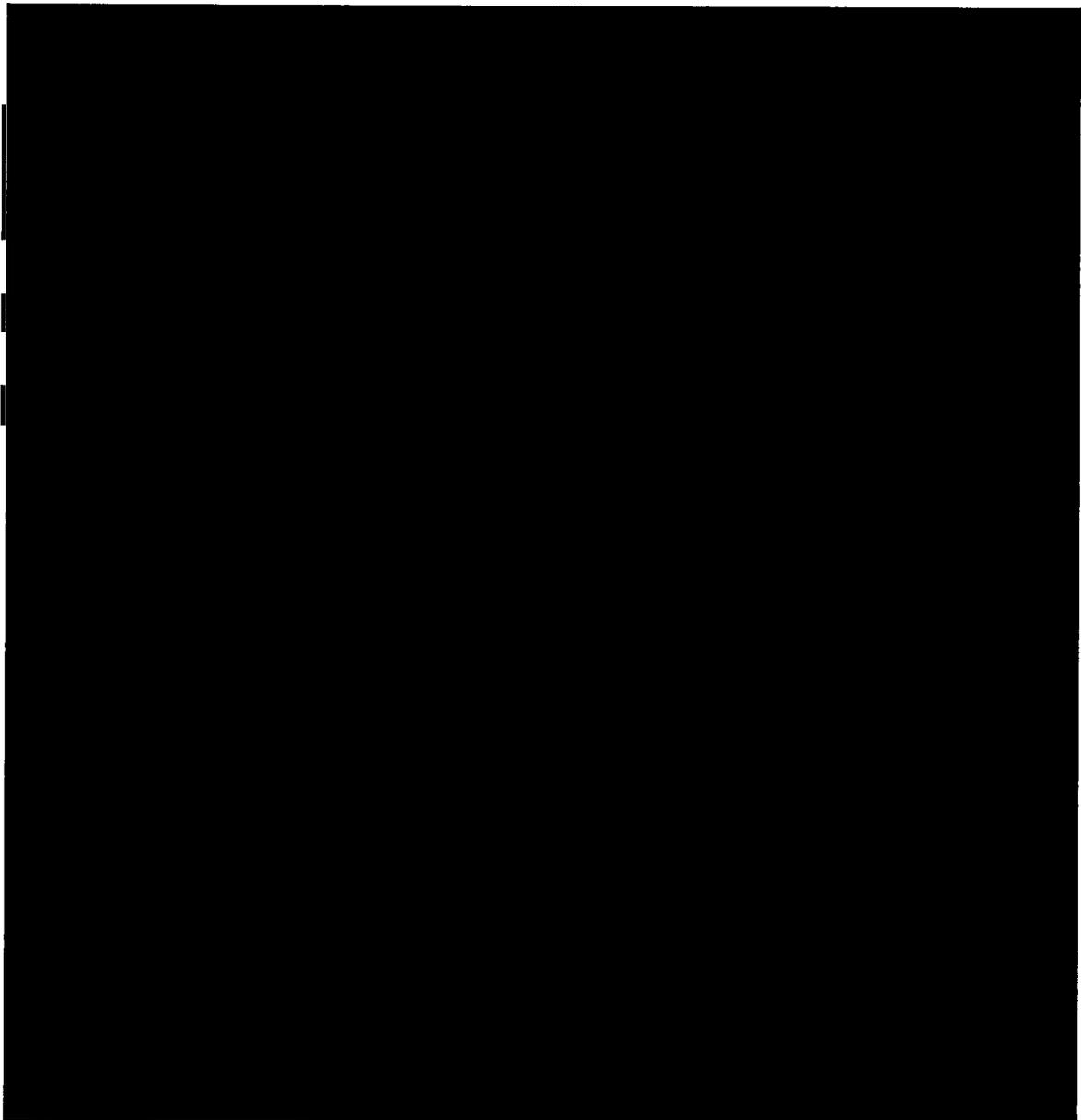
C. Rent During Pre-COD Term

1. Pre-COD Rent

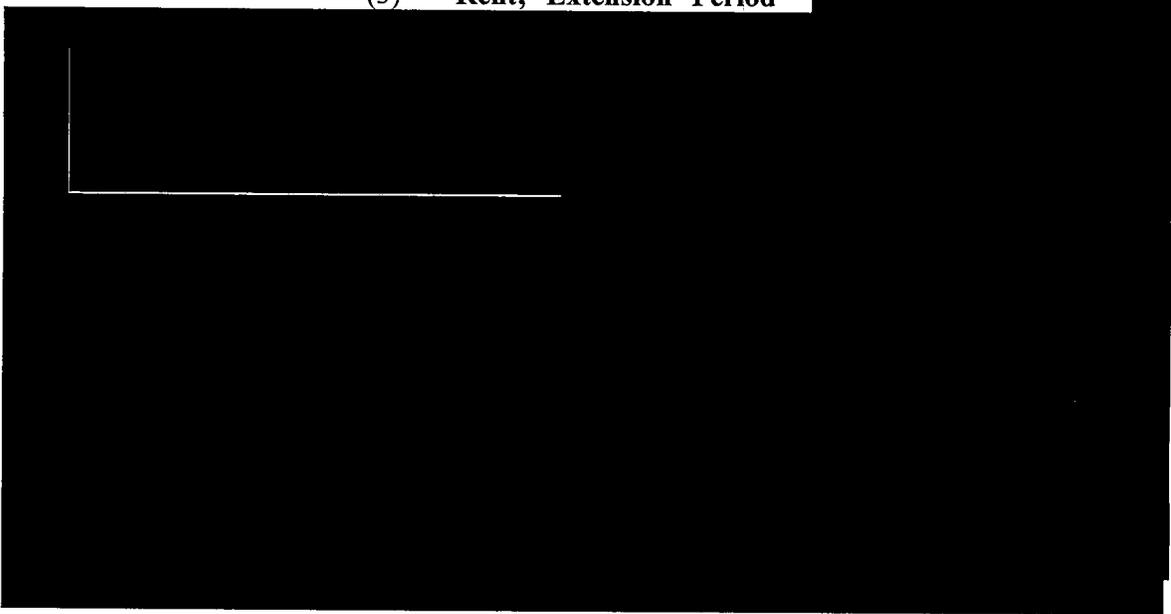




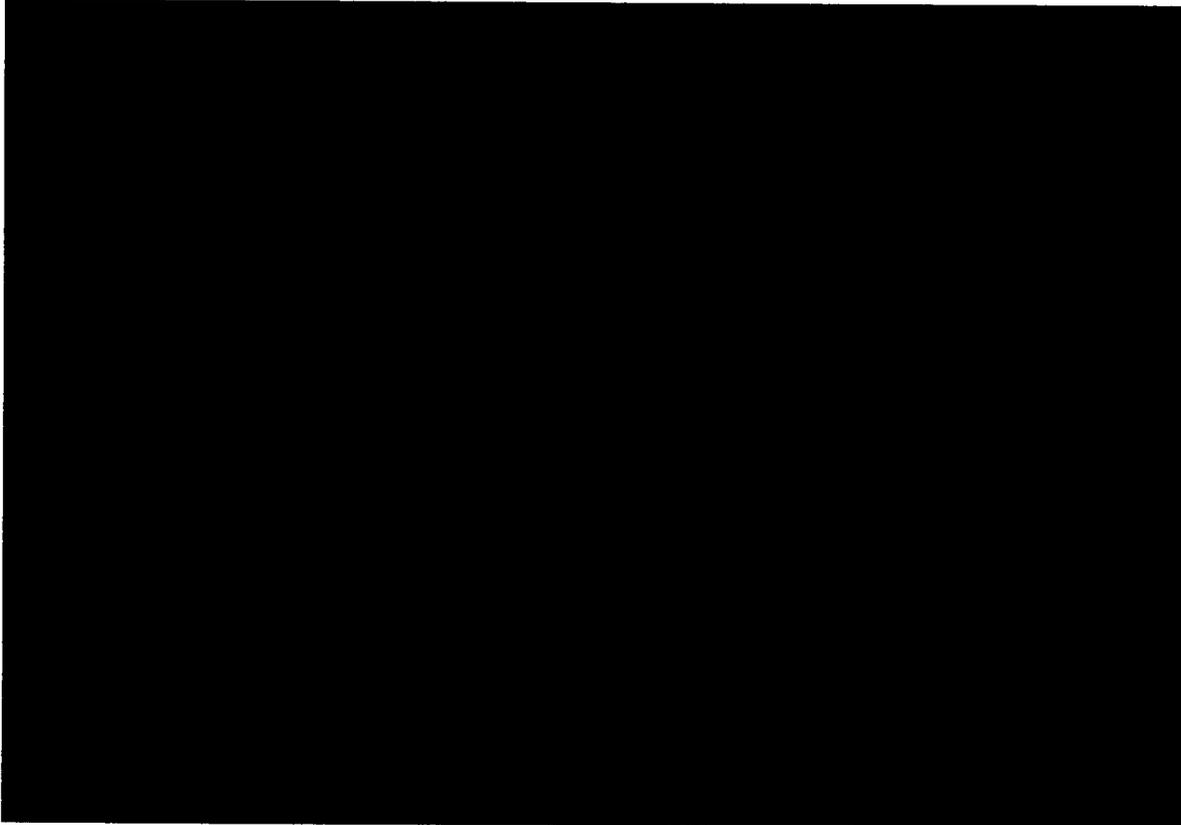
D. Rent Following COD

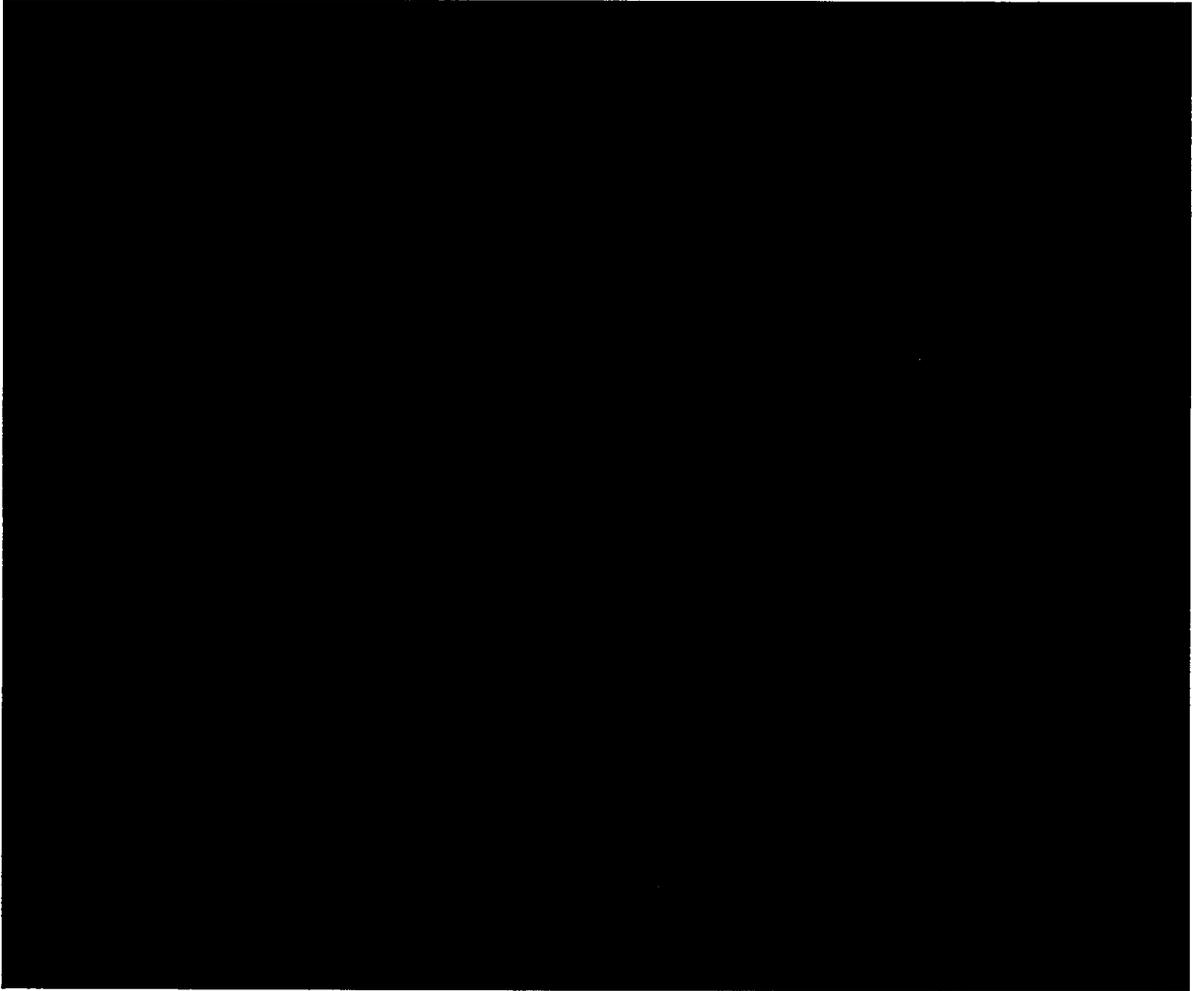


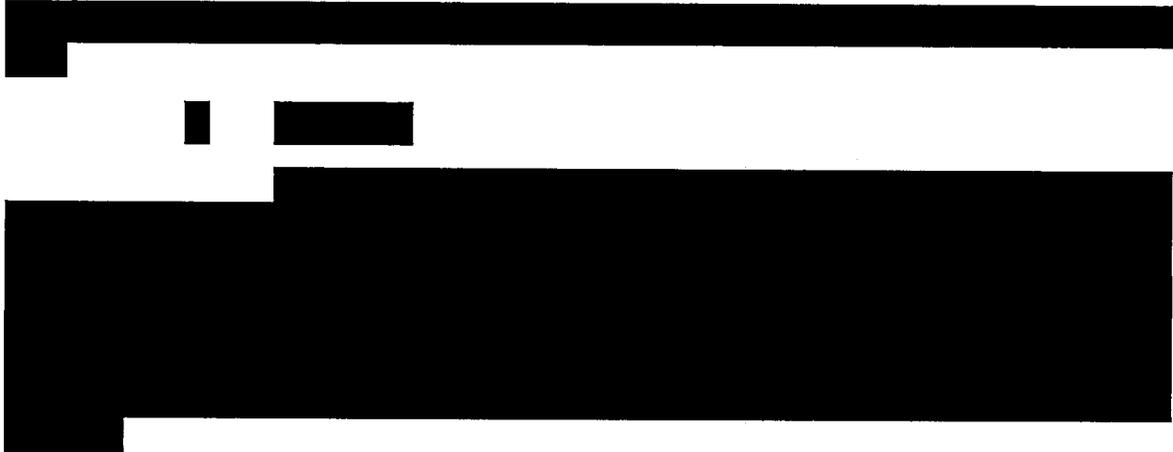
(3) Rent; Extension Period



E. Interest; Late Charge







III. Project Improvements

A. Construction.

1. Subject to Section III.A.2 below and other applicable terms and conditions of this Lease, Tenant shall have the right, at its sole cost and expense, to erect and maintain the Project Improvements on the Property. Tenant shall cause all construction to be completed in accordance with all Applicable Laws (as hereafter defined). Tenant shall provide at least 10 business days' prior written notice to Landlord of commencement of construction of the Project Improvements, so that Landlord may post and/record a notice of non-responsibility on the Property. Tenant shall indemnify Landlord for any Claims (as defined in Section XV.A.1 hereof) arising from any liens or and claims of liens against the Property for labor and services performed on, and materials, supplies and equipment furnished to the Property in connection with Tenant's use of the Property.

2. Within ninety (90) calendar days of the completion of all Project Improvements on the Property, Tenant shall deliver to Landlord a complete set of "as-built" plans that will include only those plans pertaining to conventional buildings which Landlord, upon the termination or expiration of this Lease would have the option to retain below.

B. Ownership of Project Improvements

1. Tenant As Owner

a. **Defined.** Except as otherwise provided herein, any and all buildings and improvements placed or erected on the Property as part of the Project Improvements, as well as any and all other alterations, additions and fixtures, made or placed in or on the Property by Tenant, or any other person, shall be owned and vested in Tenant during the Term of this Lease, and shall not be subject to Landlord's right of reversion upon the expiration of the Term. Upon expiration or sooner termination of this Lease, such Project Improvements (or the portion of such buildings and improvements as remain on the Property if this Lease is terminated by reason of a taking of the Project Improvements or the damage or destruction of the Project Improvements) and any above or underground storage tanks, clarifiers, sumps or similar structures or improvements installed by Tenant during the term of this Lease

shall be removed by Tenant from the Property at its sole cost and expense and the Property shall be restored by Tenant, at Tenant's sole cost and expense, to its condition before it was leased to Tenant. Notwithstanding the above, the following Project Improvements shall not be removed from the Property at the expiration or earlier termination of the Term: (i) any access roads or utilities improvements made to or on the Property, and (ii) those improvements that Landlord desires to remain on the Property (excluding any improvements that Tenant deems proprietary, including, but not limited to, the SunCatchers™), as expressed in a written notice to Tenant, and such improvements by their nature cannot be reasonably removed from the Property by the Tenant without significant damage to such improvement (e.g. fixed buildings). Those Project Improvements which become or are to become the property of Landlord at the expiration or earlier termination of this Lease shall be delivered to Landlord free and clear of any liens, encumbrances or adverse claims, and free and clear of any Hazardous Materials. The covenants and obligations of this Section shall survive the expiration or earlier termination of this Lease.

b. To ensure Tenant's obligation to remove the Project Improvements (or the portion of such buildings and improvements which Landlord does not desire to remain on the Property per Section III.B(1)(a) above),

[REDACTED]

IV. Insurance

A. Liability Insurance

1. Responsibility

a. **Coverage; Limits.** Tenant shall maintain, or shall cause to be maintained by its subtenants, if any, during the entire Term of this Lease and any extension thereof, a policy of general liability and property damage insurance insuring Tenant and Landlord (as an additional insured) against any and all

[REDACTED]

[REDACTED]



2. Limited Mutual Releases

a. **Terms.** Landlord and Tenant hereby release and discharge each other and any officer, agent, employee or representative of such party, of and from any liability whatsoever arising from loss, damage or injury for which insurance is carried, by the party at the time of such loss, damage, or injury to the extent of any actual recovery by the injured party under such insurance

b. **Waiver of Subrogation.** Without affecting any other rights or remedies, Tenant and Landlord (“Waiving Party”) each hereby release and relieve the other, and waive their entire right to recover damages (whether in contract or in tort) against the other, for loss of or damage to the Waiving Party's property arising out of or incident to the perils required to be insured against under this Lease. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto

3. **Landlord's Insurance.** Landlord shall also have the right and option to maintain liability insurance described in addition to, and not in lieu of, the insurance required to be maintained by Tenant, and insurance against loss of the full rental and other charges payable

by Tenant to Landlord under this Lease for one (1) year (including all real estate taxes, insurance costs, and any scheduled rental increases

V. Representations and Warranties

A. Landlord's Representations and Warranties

1. As of the date of this Lease, Landlord represents, warrants and covenants that:

a. **Authority to Execute.** The execution, delivery and performance of the Lease will not conflict in any way with any documents defining Landlord's interest in the Property.

b. Except for the Encumbrances or as otherwise disclosed to Tenant by Landlord or known by Tenant, Landlord has not been served with, and to the best of Landlord's knowledge there are no pending or threatened, lawsuits of any nature which in any way affect title to the Property, affect the organization or solvency of Landlord, affect the validity and enforceability of this Lease, or affect the rights of the Tenant under the terms of this Lease.

B. Tenant's Representations and Warranties

1. Tenant represents, warrants and covenants that:

a. **Status.** Tenant is a duly constituted and validly existing limited liability company organized under the laws of the State of Delaware and qualified to do business in California, and has the full power to carry out the transactions contemplated by this Lease.

b. **Authority.** All actions required to be taken on the part of Tenant to authorize Tenant to execute and deliver this Lease and to consummate the transactions contemplated herein have been duly and validly taken.

c. Tenant has been advised by Landlord to satisfy itself with respect to the Property (including, but not limited to, environmental aspects, compliance with applicable laws and the present and future suitability of the Property for Tenant's intended use) and Tenant has made such investigation as Tenant deems necessary with reference to all such matters and assumes all responsibility therefore as the same relate to Tenant's occupancy of the Property and/or the term of this Lease.

d. Neither Landlord, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to the Property or any aspects thereof, other than as specifically set forth in this Lease.

e. Tenant has substantial experience with real property; and Tenant is leasing the Property in an "AS IS, WHERE IS" basis and condition, with all faults, whether known or unknown; Tenant accepts the Property subject to the Encumbrances;

f. Except as otherwise expressly provided in this Lease, neither Landlord nor any of Landlord's agent have made any representations or warranties of any kind, nature or description, direct or implied, verbal or written, with respect to the Property;

g. Tenant has relied upon Tenant's own independent investigation of the Property in entering into this Lease;

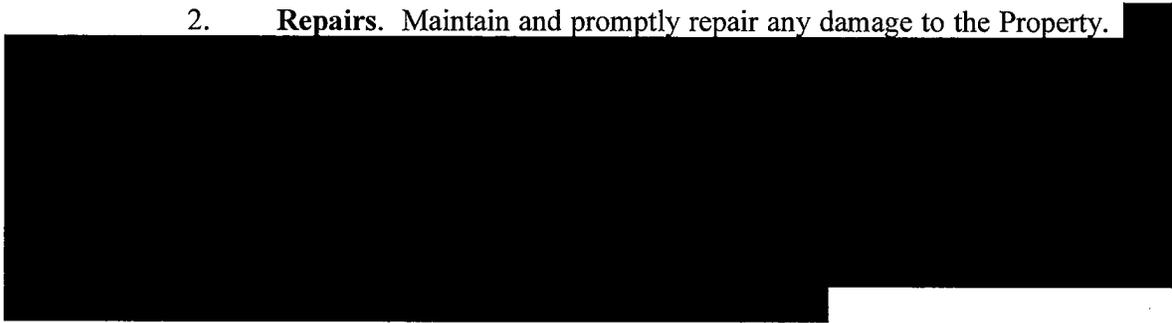
h. If Tenant failed, decided or elected not to perform any investigation, inspection or review of the Property, Tenant did so at Tenant's own risk, and Tenant accepted and assumed all risks associated therewith.

VI. Maintenance of Property

A. During the Lease term, Tenant shall at its sole cost and expense:

1. **Trash Removal.** Arrange for regular removal of trash from the Property and prevent the accumulation of trash within or about the Property. Tenant shall keep the Property in good order, condition and repair.

2. **Repairs.** Maintain and promptly repair any damage to the Property.



VII. Utilities

A. Paid by Tenant. Tenant shall be responsible for, and promptly pay, all charges for the installation, use and consumption of sewer, gas, electricity, water (including water availability

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

X. Use and Assignment

A. Use

1. **Permitted Uses.** The Property shall be used for construction and operation of the Project in accordance with Applicable Laws, and for no other purpose without Landlord's express written consent. Neither Landlord nor Tenant shall not cause or permit waste to occur on the Property. Landlord shall not burn trash or rubbish on or about the Property. Tenant shall not use or permit the use of the Property in a manner that creates waste or a nuisance.

2. **Water.**

[REDACTED]

B. Assignment

1. **Permitted Assignments by Tenant.**

[REDACTED]

2. **Permitted Assignments by Landlord.**

[REDACTED]

C. Terms and Conditions Applicable to Assignment

1. Except as otherwise provided herein,

[REDACTED]

2. Any assignment (whether or not such assignment can be done without Landlord's consent) shall not be effective without the express unconditional written assumption by such assignee of the obligations of Tenant under this Lease.

3.

[REDACTED]

4.

[REDACTED]

D. Performance by Assignee

1. **Benefits and Obligations of Assignees.** Landlord acknowledges and agrees to accept performance of Tenant's obligations under this Lease by an assignee of Tenant, as long as Landlord has received notice of such assignment and consented to such assignment per the Lease. Notwithstanding an assignment of this Lease, a sublease of the Property or any other transfers, Tenant shall not be released of its obligations hereunder.

XI. Landlord's Remedies

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

XII. Bankruptcy

A. **Consequences.** If (i) a petition of bankruptcy or reorganization shall be filed by or against Tenant, (ii) Tenant shall become bankrupt, (iii) Tenant shall make a general assignment for the benefit of creditors, or (iv) in any proceeding based upon the insolvency of Tenant, a receiver or trustee of all of the property of Tenant shall be appointed and shall not be discharged within ninety (90) days after such appointment, then, if otherwise permitted by court order or applicable law, Landlord may terminate this Lease by giving written notice to Tenant of its intention to do so; provided, however, neither bankruptcy, insolvency, reorganization, an assignment for the benefit of creditors, nor the appointment of a receiver or trustee, shall affect this Lease or permit its termination so long as the covenants on the part of Tenant to be performed shall be performed by Tenant, or someone claiming under it.

XIII. Covenant of Title

A. Quiet Enjoyment

1. **Tenant's Right To Quiet Enjoyment.** Landlord covenants, represents and warrants that, subject to the Encumbrances, it has full right and power to execute and

perform this Lease and to grant the estate demised herein and that Tenant, on payment of the Rent, and performance of the covenants and agreements hereof, shall peaceably and quietly have, hold and enjoy the Property (subject to the Encumbrances) during the Term without hindrance of any person whomsoever, and if, at any time during the Term hereby demised, except for and subject to the Encumbrances, the title of Landlord shall fail or it be discovered that its title shall not enable Landlord to grant the Term hereby demised, Tenant shall have the option, at Landlord's expense, to correct such defect or to annul and void this Lease with full reservation of its right to damages, if any.

At any time during the Term, upon reasonable prior notice to Tenant (except in the case of emergency, where Landlord will provide as much notice to Tenant and by such means as is commercially reasonable under the circumstances), Landlord or its representatives shall have the right to inspect the Premises to determine Tenant's compliance with this Lease and Applicable Laws. Landlord shall coordinate any such access to the Premises with Tenant so that Tenant, at its election, may accompany Landlord onto the Property (except in the cases of emergency whereupon Landlord shall be permitted access to the Premises as reasonably necessary to address the emergency situation).

2. Landlord, its agents, contractors and lenders shall have the right to enter the Property at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Property and for verifying compliance by Tenant with this Lease and all Applicable Laws.

B. Evidence of Title

1. **Tenant's Right To Receive Fee Simple Title.** Landlord further covenants, represents and warrants that, subject to the Encumbrances, it is seized of fee simple title in and to the Property, free and clear of any liens, encumbrances, restrictions, and known violations (or claims or notices thereof) including, without limitation, judgment liens, mortgages, deeds of trust, tax liens, public utility easements and covenants and restrictions that would impair Tenant's use of the Property in accordance with this Lease, and real estate taxes and special assessments not yet due and payable. Landlord shall, without expense to Tenant, furnish to Tenant a copy of any title policy in Landlord's possession evidencing that Landlord's title is as herein represented.

C. Right to Finance



D. Notice to Landlord

[REDACTED]

E. Conditions

[REDACTED]



F. Termination

1. **Notice.** In the event of termination of this Lease prior to the expiration of the Term, except by reason of condemnation or the default of Tenant and the failure to cure such default by the Leasehold Mortgagee after having notice thereof, Landlord shall serve upon the Leasehold Mortgagee written notice that the Lease has been terminated, together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Landlord. Such Leasehold Mortgagee shall thereupon have the option to obtain a new lease in accordance with and upon the following terms and conditions:

2. **Mortgagee's Right To New Lease.** Upon written request of the Leasehold Mortgagee within thirty (30) days after service of such notice that the Lease has been terminated, Landlord shall enter into a new lease of the Property with such Leasehold Mortgagee, or its designee, as set forth in subparagraph XIII.F.3 below.

a. **Term Of New Lease To Mortgagee.** Such new lease shall be effective on the date of termination of this Lease and shall be for the remainder of the Term of this Lease, at the Rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable rights of renewal. Such new lease shall require the tenant thereunder to perform all unfulfilled obligations of Tenant under this Lease which can be cured by the exercise of commercially reasonable efforts by such tenant. Upon the execution of such new lease, the tenant named therein shall pay all sums which would at the time of the execution thereof be due under this Lease but for such termination, and shall pay the reasonable expenses incurred by Landlord in connection with such defaults and termination, the recovery of possession of said Property, and the preparation, execution and delivery of such new lease. Upon execution and delivery of such new lease, such tenant shall be entitled to an adjustment in the amount otherwise owed pursuant to the terms of this paragraph, such adjustment to be equal to the net income, if any, derived by Landlord from the Property during the period from the date of termination of this Lease to the date of execution of the new lease.

G. Subleases By Mortgagee

1. **Consequences.** Effective upon the commencement of the term of any new lease executed pursuant to XIII.F above, all approved subleases shall be assigned and transferred by Landlord, without recourse to Landlord, to the tenant under such new lease, and all monies on deposit with Landlord which Tenant would have been entitled to use but for the termination or expiration of this Lease may be used by the tenant under such new lease for the purposes of and in accordance with the provisions of such new lease.

H. Consent of Mortgagee

1. **Required.** This Lease may not be modified, amended, or canceled by the mutual agreement of Landlord and Tenant, or surrendered, without the express written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned.

I. No Merger

1. **No Merger Into Fee Interest.** If either Landlord or Tenant shall acquire the interest of the other hereunder, this Lease shall remain outstanding, and no merger of the leasehold into the fee interest shall be deemed to have occurred.

J. Foreclosure

1. **Right of Mortgagee To Assign Following Foreclosure.** If any Leasehold Mortgagee shall acquire title to Tenant's interest under this Lease by foreclosure, assignment in lieu of foreclosure, or otherwise, or under a new lease pursuant to Section XIII.F, such Leasehold Mortgagee may assign such interest under this Lease, or in such new lease, and shall thereupon be released from all liability for the performance or observance of the covenants and conditions in this Lease, or in such new lease, contained on Tenant's or Tenant's part to be performed and observed from and after the date of such assignment; provided, however, that the assignee of such Leasehold Mortgagee shall have expressly assumed this Lease, or such new lease, and written evidence thereof shall have been submitted to Landlord; and provided further that the Landlord has approved the assignee of the Leasehold Mortgagee, such approval not to be unreasonably conditioned, withheld or delayed.

K. Modifications

1. **Limitations On Modification of Non-Monetary Terms.** Landlord and Tenant agree to make modifications to the terms and conditions of this Lease that do not affect the economic obligations of the parties hereto, and that do not have any material adverse affect on the rights or the obligations of Landlord or Tenant under this Lease, and that do not adversely affect Landlord's rights with respect to the Property, to the extent that a Leasehold Mortgagee shall require that such modifications be made in order to make the Lease acceptable to the Leasehold Mortgagee or Landlord's Lender for the making of its loan.

L. No Limitation

[REDACTED]

XIV. Fee Mortgage

[REDACTED]

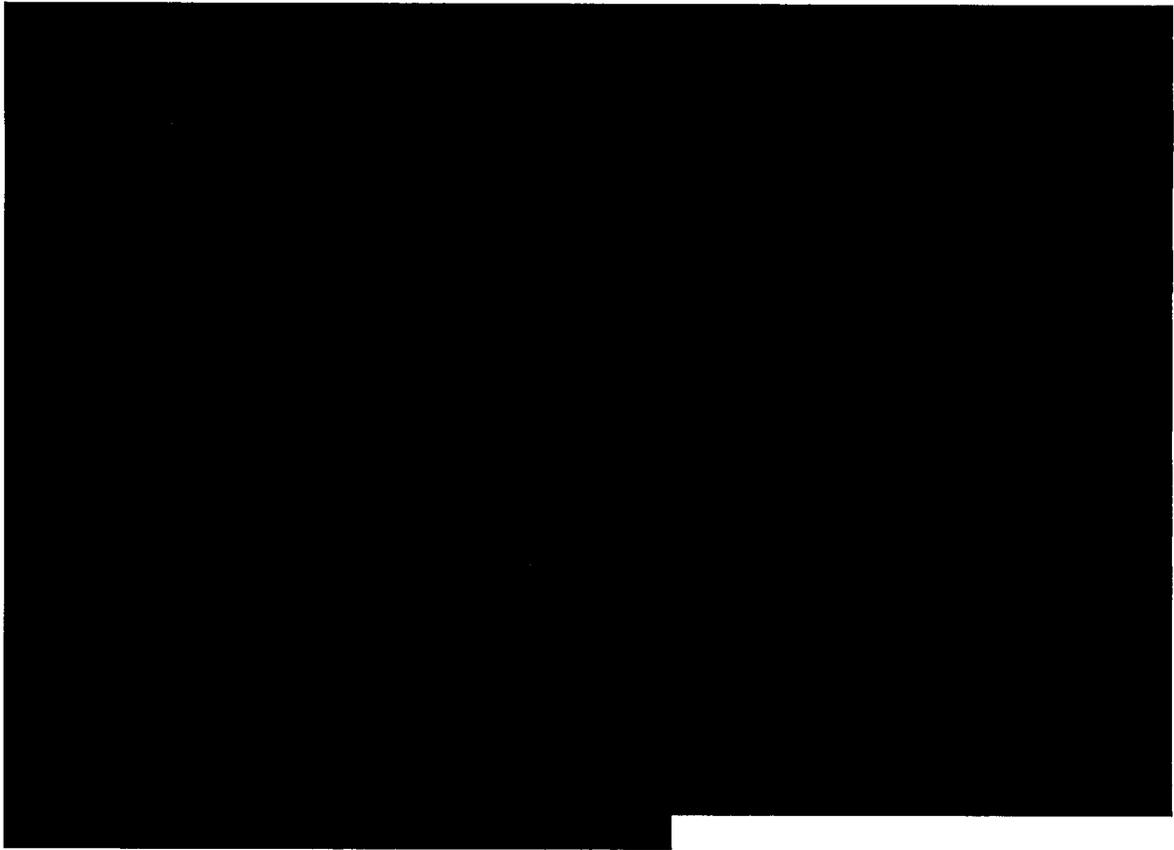
[REDACTED]

[REDACTED]

XV. Indemnifications

[REDACTED]

[REDACTED]



■ [redacted]

■



[REDACTED]

XVI. Tenant's Right to Cure Landlord's Default

[REDACTED]

XVII. Hazardous Material

A. Environmental Reports

1. **Obligation To Deliver to Landlord.** Following Landlord's written request, Tenant will provide to Landlord a copy of all the environmental reports which Tenant obtains in connection with its investigation, development and operation of the Property (collectively the "Environmental Reports").

B. Landlord's Representations

1. **Disclosure.** Except as may be disclosed in the Environmental Reports, Landlord represents that, to Landlord's actual knowledge as of the date that the Option was entered into, (i) there are no Hazardous Materials (as defined below) used, generated, stored, treated or disposed of on the Property by Landlord prior to the date of the Option, and (ii) there are no underground storage tanks located upon the Property. Landlord shall comply with all local, state and federal environmental laws imposing obligations on the Landlord as owner of the Property prior to the date of the Option.

C. Indemnification by Landlord

[REDACTED]

D. Tenant's Representations

1. **Defined.** Tenant warrants and agrees that it will not use, maintain, generate, store, treat or dispose of any Hazardous Materials in or on the Property in violation of

Applicable Laws. Tenant shall indemnify, defend and hold harmless Landlord from and against any loss, liability, claim or expense, including, without limitation, cleanup, engineering and attorneys fees and expenses that Landlord may incur by reason of any investigation or claim of any governmental agency or third party for any actions taken by Tenant, its agents, licensees, concessionaires, contractors or employees at the Property during the term of this Lease in violation of the above covenant. Tenant's obligations to Landlord under this paragraph shall survive the cancellation or termination of this Lease. Tenant's obligations under this Paragraph shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation (including consultant's and attorney's fees and testing), removal, remediation, restoration and/or abatement thereof, or of any contamination therein involved.

E. Definition

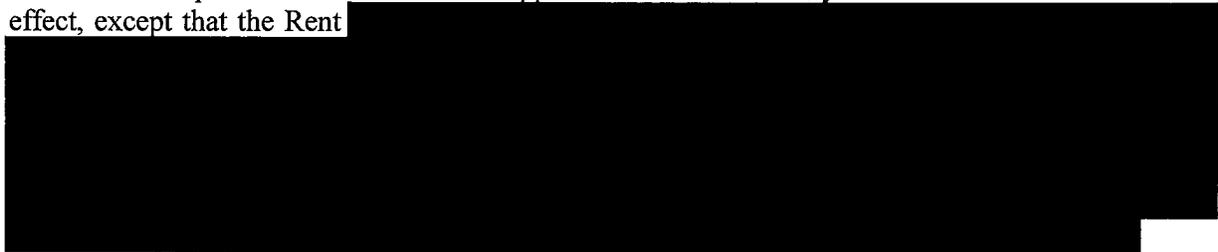
1. **Hazardous Materials.** For purposes of this Section, the term "Hazardous Materials" shall mean any toxic or hazardous waste or substances (including asbestos and petroleum products) which are regulated by applicable local, state or federal environmental laws or regulations.

F. Inspection; Compliance with Law

Landlord and Landlord's agents, employees, contractors and designated representatives, and its lenders and consultants shall have the right to enter the Property or any buildings thereon at reasonable times, for the purpose of inspecting the condition of the Property and for verifying compliance by Tenant with this Lease and all Applicable Laws.

XVIII. Holding Over

A. Terms During Holdover. In the absence of any written agreement to the contrary, if Tenant should remain in occupancy of the Property after the expiration of the Lease with the permission of the Landlord, either express or implied, it shall so remain as a tenant from month-to-month and all provisions of this Lease applicable to such tenancy shall remain in full force and effect, except that the Rent



XIX. Signage

A. Tenant's Rights. Tenant shall have the right to place the maximum amount of exterior signage on the Project Improvements and/or the Property as may be permitted by applicable governmental laws or ordinances. Notwithstanding the above, Tenant shall not have the right to place any signs or other advertising on the Property which advertises the products or favor of any

amendments or addendums, if any, attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions, provisions and understandings between Landlord and Tenant concerning the Property, and there are no covenants, promises, agreements, conditions, provisions or understandings, either oral or written; between them other than are herein set forth. No alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

2. **California Law Governs.** This Lease shall be governed by and construed in accordance with the laws of the State of California.

3. **Venue.** Venue for all disputes shall be Los Angeles County, California.

XXIII. Successors and Assigns

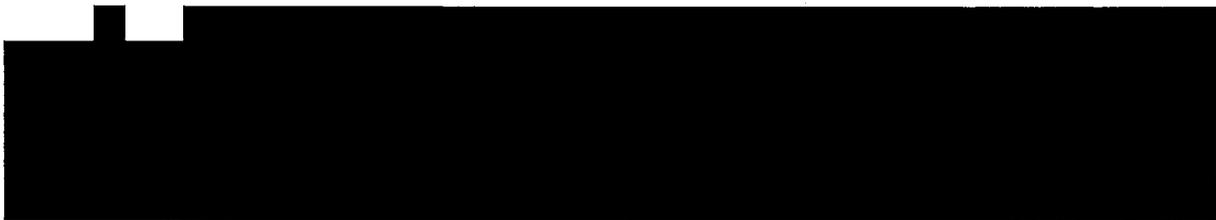
A. Binding Effect. The conditions, covenants and agreements contained in this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns. The covenants contained herein shall be deemed to be covenants running with the Property and shall be binding upon all owners, users and occupants of the Property so long as this Lease remains in effect.

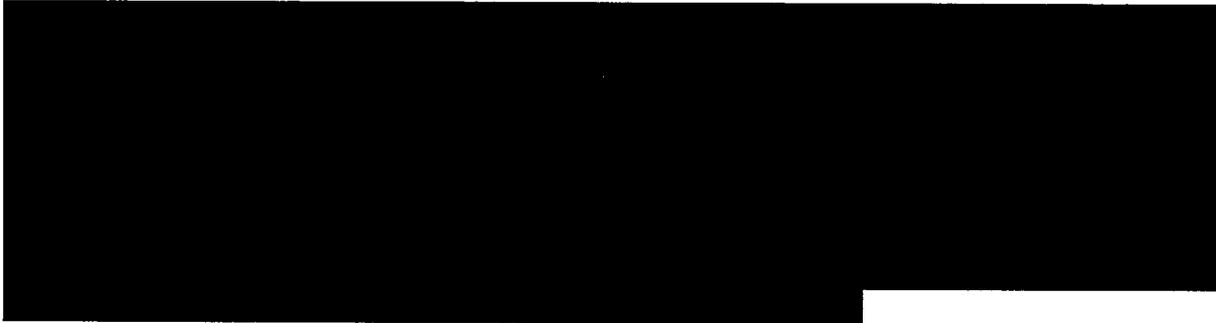
XXIV. Memorandum of Lease

A. Requirement. Upon the Possession Date, the parties shall, promptly upon the request of either, execute and deliver a memorandum of lease in the form attached as "**Exhibit B**" which Tenant may, at its sole expense, cause to be recorded against the Property. The recorded Memorandum of Lease shall be returned to Tenant. Any time after the Memorandum of Lease is recorded, Tenant shall, within ten (10) days after Landlord's request, execute and deliver to Landlord a recordable quitclaim deed executed and acknowledged by Tenant in favor of Landlord, conveying to Landlord any right, title or interest in the Property created, owned or held by Tenant resulting from the execution of this Lease and execution and recordation of the Memorandum of Lease. Landlord shall have the right to record the quitclaim deed upon the expiration or earlier termination of the Lease.

B. If not requested by Landlord earlier as provided above, upon the expiration or sooner termination of this Lease, Tenant shall immediately deliver a quitclaim deed in recordable form to Landlord, which quitclaim deed shall be sufficient to release any interest Tenant may have in the Property. Without limiting any statutory or other damages, Tenant shall be responsible for all incidental and consequential damages from its failure to deliver such quitclaim. This provision shall survive the expiration or termination of this Lease.

XXV. Estoppel Certificates





XXVI. Captions and Definitions

A. Not Part of Agreement. Section or subsection captions of this Lease are solely for convenience of reference and shall not in any way limit or amplify the terms and provisions thereof. The necessary grammatical changes which shall be required to make the provision of this Lease apply (a) in the plural sense if there shall be more than one Landlord and (b) to any landlord, which shall be either a corporation, an association, a partnership or an individual, male or female, shall in all instances be assumed as though in each case fully expressed.

B. Attorney's Fees. In the event of a dispute, lawsuit or other action between the parties regarding the parties obligations and/or right under this Lease, the substantially prevailing party in any such litigation, action or dispute shall be entitled to recover its actual costs, reasonable attorneys' fees and court costs, including appeals, mediation or arbitration, if any, from the other party.

XXVII. Contingencies [Intentionally omitted]

XXVIII. Relationship of the Parties

A. No Partnership Or Joint Venture Created. Nothing contained in this Lease shall be deemed or construed as creating a partnership or joint venture between Landlord and any other person or entity (including, without limitation, Tenant), or as causing Landlord or Tenant to be responsible in any way for the debts or obligations of the other.

XXIX. Waiver or Consent Limitation

A. No Waiver Or Consent Inferred. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No agreement to accept a surrender of all or any part of the Property shall be valid unless in writing and signed by Landlord. The receipt by Landlord of full or partial Rent, with knowledge of a breach by Tenant of any obligation of this Lease, shall not be deemed a waiver of such breach. Either party's ("Approving Party") consent to or approval of any act by the other party requiring the Approving Party's consent or approval shall not be deemed to waive or render unnecessary the Approving Party's approval of any subsequent similar act by the other party.

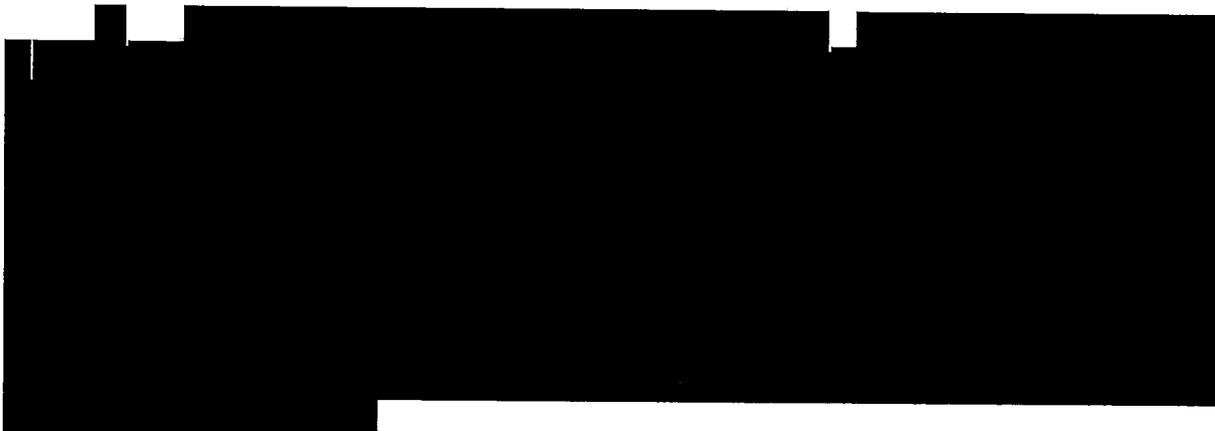
XXX. Force Majeure

A. Defined; Consequences. Landlord and Tenant shall be excused for the period of any delay in performance of any obligations hereunder by reason of the wrongful or negligent acts or omissions of the other party, their agents, employees, or contractors, or by reason of labor disputes, civil disturbance, war, war-like operations, invasions, rebellion, hostilities, military or usurped power, terrorist acts, sabotage, governmental regulations or controls, fires or other casualty, or acts of God (referred to collectively herein as "Force Majeure"). Notwithstanding the foregoing, nothing contained in this Section XXXI shall excuse either party from paying in a timely fashion any payments due under the terms of this Lease.

XXXI. Survival of Indemnities

A. Indemnity Obligations of Parties Survive Expiration Or Termination. Notwithstanding any other provisions of this Lease providing for the termination of this Lease and/or the release of the parties hereunder, any and all indemnification obligations set forth in this Lease shall survive the termination or expiration of this Lease, and any and all other obligations or liabilities accruing but unpaid, unperformed or otherwise not released by the parties hereto prior to any such termination, and which obligations or liabilities are at the time of such termination capable of being paid, performed or otherwise satisfied, shall survive the termination or expiration of this Lease.

XXXII. Acceptance of Payments



XXXIII. Non-Discrimination

A. Covenant Against Discrimination. Tenant herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through it, that this Lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Property, nor shall Tenant itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or

segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the Property.

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IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

LANDLORD:

Hossein Alimamaghani

TENANT:

Imperial Valley Solar, LLC (formerly known as SES Solar Two, LLC), a Delaware limited liability company

By: _____
Name: _____
Title: _____

Exhibit A To Ground Lease

Legal Description of Property

[TO BE ATTACHED PRIOR TO EXECUTION]

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Page

Form of Recordable Memorandum of Lease

Exhibit B

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Tenant

Address

MEMORANDUM OF GROUND LEASE

This memorandum gives notice of that certain Ground Lease dated _____, 2010 (“Lease”), between Hossein Alimamaghani (“Landlord”), and Imperial Valley Solar, LLC (“Tenant”), concerning the premises in the unincorporated area of the County of Imperial, California, which premises are more particularly described in Exhibit “A” attached hereto and made a part hereof by reference, excluding any water rights related thereto (which are reserved to Landlord as set forth in the Lease) (the “Property”).

For good and valuable consideration, Landlord has leased to Tenant, and Tenant has leased from Landlord the Property, for the term and under the provisions contained in the Lease, which terms and provisions are incorporated herein by this reference.

The Lease commenced on _____ (Insert Possession Date), and will run for a period of twenty (20) years from and after _____ (the “Term”), as “Commercial Operation Date” is defined in the Lease, which is estimated to be (Insert Estimated Completion Date), subject to Tenant’s one (1) option to extend the term of the Lease for an additional ten (10) years. The term of the Lease with the extension option does not exceed thirty five years.

This memorandum is not a complete summary of the Lease. In the event of conflict between this memorandum and the Lease, the Lease shall control.

Executed at _____, on _____, 2010.

Landlord:

LANDLORD:

Hossein Alimamaghani

TENANT:

Imperial Valley Solar, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____, _____ of Imperial Valley Solar, LLC, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public in and for the State of Texas

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On this _____ day of _____, 2010, before me, _____, Notary Public, personally appeared _____

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION FOR THE
IMPERIAL VALLEY SOLAR PROJECT**
(formerly known as SES Solar Two Project)
IMPERIAL VALLEY SOLAR, LLC

**Docket No. 08-AFC-5
PROOF OF SERVICE
(Revised 6/8/10)**

APPLICANT

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DECLARATION OF SERVICE

I, Darin Neufeld, declare that on August 13, 2010, I served and filed copies of the attached Applicant's Submittal of Hossein Alimamaghani Option to Ground Lease Redacted. The original documents, filed with the Docket Unit, are accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[http://www.energy.ca.gov/sitingcases/solartwo/index.html\]](http://www.energy.ca.gov/sitingcases/solartwo/index.html)

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery;

by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses NOT marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-5
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original Signed By _____
Darin Neufeld