

Third Amendment to Site Lease

This Third Amendment to Site Lease (this "**Third Amendment**"), dated as of June __, 2018, (the "**Effective Date**"), is made and entered into by and between SAN LUIS SPEAR POINT SOLAR I, LLC, a Delaware limited liability company (the "**Lessee**"), and the CITY OF SAN LUIS, an Arizona municipality ("**Lessor**") (each a "**Party**" and collectively, the "**Parties**"), with reference to the following:

RECITALS

A. Lessor entered into a Site Lease dated January 30, 2014 with Artemis Sun Institutional Solar, Inc., a Texas corporation ("**Artemis Sun**"), as lessee (the "**Original Lease**") and Lessor entered into a Solar Power Purchase Agreement with Artemis Sun (the "**PPA**"), dated January 30, 2014. Artemis Sun assigned all of its right, title and interest as lessee under the Original Lease and as the power provider under the PPA to Lessee.

B. Subsequent to the assignment of the Original Lease to Lessee, the Original Lease was amended by (i) that certain Amendment and Consent to Assignment dated May 28, 2014 and effective as of June 13, 2014, (ii) that certain First Amendment to Amendment and Consent to Assignment, dated as of December 18, 2014, and (iii) that certain Second Amendment to Site Lease, dated as of December 18, 2014 (as amended, the "**Site Lease**").

C. The Site Lease currently pertains to six separate parcels of real property located in the City of San Luis, Arizona. Three of the parcels of land, identified in the current Site Lease as Parcels 3, 4, and 5, are described in Exhibit A to this Third Amendment, are owned in fee by the Lessor and are referred to herein as the "**City Parcels**". The three other parcels of land, identified in the Site Lease as Parcels 1, 2 and 6, are described in Exhibit C to this Third Amendment, are owned by the United States and managed by the Department of the Interior, Bureau of Land Management (the "**BLM**"), are leased to the Lessor pursuant to a lease between the Lessor and the BLM, and are referred to herein as the "**BLM Parcels**".

D. As permitted by the Site Lease, Lessee has installed and has been operating covered parking solar photovoltaic and roof mounted systems, including all improvements thereto (each, a "**System**" and collectively, the "**Systems**") on those portions of the City Parcels and the BLM Parcels depicted on Exhibit B and Exhibit D attached hereto (such portion on the City Parcels as depicted on Exhibit B being, the "**Premises**" and such portion of the BLM Parcels as depicted on Exhibit D being the "**BLM Premises**"), which Exhibit is incorporated herein for all purposes, for the purpose of generating on-site electrical energy output from the Systems ("**Solar Power**") and selling the Solar Power to Lessor pursuant to the PPA.

E. The BLM, upon discovery that the Lessor and Lessee had included the

BLM Premises as part of the Site Lease, objected to such inclusion and requested that (i) Lessee apply for and obtain a separate Right of Way Agreement from the BLM covering the BLM Parcels and the construction and maintenance of a portion of the Systems on the BLM Premises (the "**BLM Right of Way Agreement**"), and (ii) Lessee and the Lessor modify the Site Lease to exclude the BLM Parcels therefrom.

F. Lessee has made application for the BLM Right of Way Agreement and, effective upon the issuance of the BLM Right of Way Agreement, the Lessor and Lessee wish to amend the Site Lease to remove and exclude the BLM Parcels from the Site Lease.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the Parties hereby agree as follows:

1. Amendments. Effective upon the effectiveness of the BLM Right of Way Agreement, the Site Lease is amended as follows:

(a) Identity of the Parties.

- (i) Throughout the Site Lease, the term "Lessor" shall mean the City of San Luis, Arizona, an Arizona municipality.
- (ii) Throughout the Site Lease, the term "Lessee" shall mean San Luis Spear Point Solar I, LLC, a Delaware limited liability company and its successors and assigns.

(b) Description of the Property and the Premises.

- (i) Exhibit A of the Site Lease is hereby replaced in its entirety with Exhibit A attached to this Third Amendment, such that the Property, as defined in the Site Lease, shall include only those parcels set forth on Exhibit A hereto.
- (ii) Exhibit B of the Site Lease is hereby replaced in its entirety with Exhibit B attached to this Third Amendment, such that the Premises, as defined in the Site Lease, shall include only those areas of the Property set forth on Exhibit B hereto.
- (iii) A new Exhibit C as attached to this Third Amendment is hereby added as Exhibit C to the Site Lease.
- (iv) The final sentence of Recital B of the Site Lease is modified by adding the following at the end of such sentence: "; except that references in the PPA to the "Premises" shall include both the Premises and those areas of the parcels subject to the BLM Right of Way Agreement upon which a System

or Systems are constructed.”

(c) Acknowledgement that BLM Land is not Subject to the Site Lease.

- (i) Section 1 of the Site Lease is modified to add a new subsection (d) to read entirety as follows:

“(d) BLM Right of Way Agreement and BLM Land. Lessor and Lessee acknowledge that, in addition to the lease of the Property and the grant of easements pursuant to this Agreement, Lessee is also entering into a Right of Way Agreement (the “**BLM Right of Way Agreement**”) with United States Department of the Interior, Bureau of Land Management (the “**BLM**”) covering the land described on Exhibit C hereto (the “**BLM Land**”). The description of the BLM Land is included as an Exhibit to this Agreement for identification purposes and for purposes of the Section 32 below and is not part of the land being leased by the Lessor to Lessee pursuant to this Agreement.

(d) Modification of Section 5(k) and 5(l)

- (i) Section 5(k) of the Site Lease is hereby deleted in its entirety.
- (ii) Section 5(l) of the Site Lease is hereby amended by deleting therefrom the phase beginning in the fifth line which states “due to either (i) the expiration or termination of the BLM Lease or (ii) a determination by the BLM that Lessor is in violation of the BLM Lease,” and replacing such phase with “for any reason other than termination of the BLM Right of Way Agreement”.

(e) Subordination. A new Section 32. is hereby added to the Site Lease to read in its entirety as follows:

“32. Subordination of Existing BLM Lease to Lessee’s Rights under BLM Right of Way Agreement. Lessor and Lessee acknowledge that the BLM Land is subject to both (i) that certain Recreational or Public Purpose Lease by and between Lessor and the BLM dated November 19, 1997, as modified by that certain Decision Regarding Change of Use dated July 29, 2006 (as amended, the “**BLM Lease**”), and (ii) the BLM Right of Way Agreement between Lessee and the BLM. Lessor hereby agrees that, for so long as both the BLM Lease and the BLM Right of Way Agreement are both in effect, the BLM Lease and Lessor’s rights thereunder shall be subject and subordinate to the BLM Right of Way Agreement and Lessee’s rights thereunder. Lessor shall not, in the exercise of its rights under the BLM Lease, or otherwise, interfere with, disturb, displace or engage in or permit any action that may interfere with Lessee’s use and enjoyment of the BLM Land or the BLM Right of Way Agreement, including the solar insolation occurring thereon.”

(f) Memorandum of Filing. A new Section 33 is hereby added to the Site Lease which shall read in its entirety as follows:

“33. Memorandum; Filing. Lessee may record one or more memoranda of lease and contract rights, or other applicable documents, in the registry or title record of the county where the Project is located (Yuma County, Arizona) or other applicable government office. Lessor agrees to execute and deliver one or more memoranda of lease or contract rights, or such other documents, in form and substance reasonably acceptable to Lessee. Lessee may make any applicable public filing or recording to protect its ownership interest in the Systems.”

(g) A.R.S. Section 38-511. A new Section 34 is hereby added to the Site Lease which shall read in its entirety as follows:

“34. A.R.S. Section 38-511. Lessor and Lessee each acknowledge that it is aware of the cancellation provisions of A.R.S. §38-511, which provides for the cancellation of certain contracts if an applicable government agency's employee has any financial interest in the contract. Lessor represents that, with respect to this Agreement, it is not aware of any such interest by any employee of Lessor.”

2. **Force and Effect.** As amended hereby, the Site Lease is and shall remain in full force and effect .
3. **Governing Law.** This Third Amendment shall be governed and construed in accordance with the laws of the State of Arizona.
4. **Counterpart Execution.** This Third Amendment may be executed in one or more counterparts, each of which shall be deemed and original and all of which together shall constitute a single instrument.
5. **Compliance with Arizona Laws.**

(a) Immigration. Pursuant to the provisions of A.R.S. §41-4401, Lessee hereby warrants (i) that it and any of its contractors or subcontractors will comply with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. §23-214, subsection A, (ii) that a breach of this warranty shall be deemed a material breach of the contract that is subject to the penalties of A.R.S. §41-4401.A.2, and (iii) that the Lessor shall have the right to random verification of employment records of Lessee, its contractors, or subcontractors to ensure compliance with this warranty.

(b) Cancellation of Contracts. As amended hereby, the Site Lease is subject to the cancelation provisions of A.R.S. §38-511.

(c) **Israel Boycott.** Lessee shall execute a certification regarding whether it is boycotting Israel as provided by A.R.S. §35-393.01.

[Signature Page Follows]

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

LESSOR:

THE CITY OF SAN LUIS, ARIZONA

By: _____
Name:
Its:

LESSEE:

SAN LUIS SPEAR POINT SOLAR I, LLC

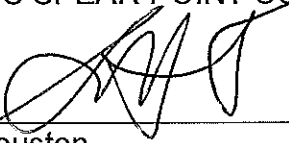
By:  _____
Name: Sam Houston
Its: Manager

EXHIBIT A

Legal Description of City Parcels

Parcel #3: 101 West Juan Sanchez Boulevard, San Luis, Arizona at
Section: 11 Township: 11S Range: 25W Lots 2, 3, SEC 2 & Lot 27 SEC 11

Parcel #4: 358 South Avenue D, San Luis, Arizona at
Section: 11 Township: 11S Range 24W SE4 EXC THE E751.25 FT of N 1449.58 FT &
EXC BEG at S4 COR SEC11, TH N 659.65 FT TH E 2639.18 FT TH S 658.94 FT
TH W 263896 FT to POB

Parcel #5: 1311 North 4th Avenue, San Luis, Arizona at
Section: 01 Township: 11S Range: 25W SW4 SW4 NE4 (Lot 2) EXC PT LYING IN EAST
MAIN CANAL

EXHIBIT C

Legal Descriptions of BLM Land

Parcel #1: City Hall - 1090 E. Union Street, San Luis, Arizona

Parcel #2: Fire Station - 1165 N. McCain Avenue, San Luis, Arizona

Parcel # 6 Police Station - 1030 E. Union Street, San Luis, Arizona