

The Alaska Mental Health Trust Authority
Trust Land Office
FINAL BEST INTEREST DECISION
Negotiated Ground Lease - Nikiski

MHT 9201068
MH Parcel(s) SM-1162-01, SM-1162-04

- I. Executive Summary.** The applicant—TUGLIQ Energy USA Inc.—requests a ground lease for Trust land to develop a multi-phase solar farm project near Nikiski. The parcels involved are MH Parcel(s) SM-1162-01 and SM-1162-04, designated under file number MHT 9201068. The subject property is legally described as T. 007 N., R. 011 W., SEWARD MERIDIAN, ALASKA, and includes multiple sections covering approximately 680 acres, more or less. The Trust Land Office (TLO) has completed a preliminary decision and provided public notice, receiving and reviewing public comments during the notice period. In response to those comments, the TLO has incorporated or reinforced specific lease stipulations and mitigation measures to address the concerns raised. A draft of the proposed lease is attached as Exhibit B. With these adjustments, the TLO's Executive Director issues this final written decision approving the proposed lease of the Trust land to TUGLIQ Energy USA Inc. for the solar farm project.
- II. Proposed Use of Trust Land.** A ground lease for a multi-phase solar farm project near Nikiski.
- III. Applicant/File #.** TUGLIQ Energy USA Inc. / MHT 9201068
- IV. Subject Property.**
- A. Legal Description.**
- SM-1162-01:
T. 007 N., R. 011 W., SEWARD MERIDIAN, ALASKA
SECTION 27 : SE1/4NE1/4, SE1/4SW1/4, SW1/4SE1/4, E1/2SE1/4
SECTION 33: E1/2NE1/4
SECTION 34:N1/2;
CONTAINING 600.00 ACRES, MORE OR LESS.
ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN DENVER, COLORADO ON DECEMBER 10, 1979.
- SM-1162-04:
T. 007N., R. 011 W., SEWARD MERIDIAN, ALASKA
SECTION 33: W1/2NE1/4;
CONTAINING 80.00 ACRES, MORE OR LESS.
ACCORDING TO THE SURVEY PLAT ACCEPTED BY THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT IN DENVER, COLORADO ON DECEMBER 10, 1979.
- AGGREGATING 680 ACRES.

- B. Settlement Parcel Number(s).** SM-1162-01, SM-1162-04
- C. Site Characteristics/Primary Resource Values.** SM-1162-01 and SM-1162-04 are wooded, spruce-dominant, relatively flat parcels located in a rural area outside Nikiski, AK. Portions of the property are classified wetlands by the US Fish and Wildlife Service. The property has several off-road vehicle trails initially, created from timber harvest operations. Currently, the primary resource value is recreational property.
- D. Historical and Existing Uses of the Property.** Small scale timber harvest occurred on the property from 2001 through 2005. The timber sale contracts were compliantly completed and closed out. Currently, there are active easement agreements with Homer Electric Association (HEA) for a mainline transmission line running through the southwest corner of SM-1 162-04 along the corridor of Escape Route Road. Alaska Pipeline Company holds a utility easement along the same southwest corner of SM-1162-04 along Escape Route Road. Both existing uses are compatible with the proposed ground leases.

This property was previously leased, MHT 9200844/9200874, by TLO to Renewable IPP, LLC for the purpose of developing a solar farm. As of November 2025, this lease was relinquished and terminated for being unable to secure final project financing.

- E. Adjacent Land Use Trends.** Adjacent land use trends are mineral exploration and development, public recreation, and wildlife habitat. The applicant leases a block of adjacent State of Alaska Mining Claims and Upland Mining Leases.
- F. Previous State Plans/Classifications.** Previously a part of the Kenai National Moose Range Legislatively Designated Area, AS 16.20.030(a)(08).
- G. Existing Plans Affecting the Subject Parcel.** There are no local plans or zoning affecting the subject parcel.
- H. Apparent Highest and Best Use.** Given the site characteristics, history, and adjacent land use trends described above, the highest and best use of this property is a negotiated lease for utility scale solar power generation.
- V. Proposal Background.** On June 12, 2024, the Trust Land Office and Renewable Independent Power Producers (IPP) LLC entered into a lease agreement, serialized as MHT 9200844, for the subject property for the purpose of building a two phased solar farm, interconnection into the Homer Electric Association utility grid on Escape Route Road. IPP was able to complete a handful of studies after lease issuance including a Phase 1 Environmental Site Assessment, Ground Screw testing, Eagle Survey, Wetlands Report, and a Geotechnical & Engineering Considerations Report. On November 14, 2025, this lease was terminated at the request of IPP due to not finding a new developer to take on the project, being unable to secure financing, or a new Power Purchase Agreement due to market conditions at the time.

Since this termination, TUGLIQ Energy USA Inc. (TEU) has expressed interest in continuing the development of the solar farm project. TEU is a specialized Independent Power Producer based out of Quebec, Canada with solar projects and studies ranging from Africa to the Northwest Territory of Candana. TEU will serve as the lessee, with their operational partner Solvest Inc. who specializes in comprehensive renewable energy solutions. The project looks to utilize expiring tax credits in order to make development costs of the project economical. TEU would serve as the original lessee, with an anticipated assignment to a project specific entity, to be created, in which TEU will remain as the asset owner.

The project was able to secure a Memorandum of Understanding with Homer Electric Association for the connection to their transmission infrastructure for the offtake, which will be updated to a full Power Purchase Agreement as the project advances, subject to regulatory approval.

Should the TLO's disposal process result in a timely issuance of a lease agreement and financing be secured, it is anticipated that development would begin in early summer 2026 in order to make use of applicable tax credits that make the project feasible. Development will be an initial 79,000 modules across 260 acres of the property with an installed capacity of 56.5 megawatts. An option to lease the second phase of development would expand the project to the remaining 420 acres of the property at a later date, to take advantage of the infrastructure of Phase 1.

VI. Authorities. The following authorities guide the Executive Director's final decision:

A. Applicable Authority. AS 37.14.009(a), AS 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust land management and disposal). In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust ("Trust") land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries. In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act, the Executive Director of the Alaska Mental Health Trust Land Office ("TLO") shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

B. Inconsistency Determination. As the proposed negotiated land lease is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the State under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain State statutes applicable to other State land do not apply to Trust land unless determined by the Executive Director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The State Statutes deemed inconsistent with Trust management principles and inapplicable to Trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and Duties of the Director), AS 38.05.300 (Classification of Land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).

VII. Terms and Conditions.

A. Phases of Agreement: A full life cycle lease agreement was developed by the TLO for renewable energy development projects and consists of 3 total phases within the agreement:

- i. Initial Phase. A 5-year term for TEU to permit, study, secure financing, and construct the project.
- ii. Operational Phase. A 30-year term for TEU to operate and maintain the project.
- iii. Decommissioning or Reclamation Phase. An 18-month term for TEU to complete reclamation and decommissioning activities as they vacate the property.

These phases each have required plans of operations, development, and reclamation that must be approved by TLO.

B. Option to Lease for Solar: An Option to Lease Phase Two of the project will be a term within the lease agreement for the project as a whole. Should TEU opt to exercise the option, the TLO shall review and approve development plans for the additional 420 acres and Phase 2 shall become subject to the existing agreement and its escalations. Should TEU not request to exercise the option to lease by Year 5 of the Operational Phase, the option shall expire or the option to lease fee shall be subject to an escalation for an additional 5 years.

C. Lease Term: Upon final project approval to begin producing power, TLO will review and approve the conversion from the Initial Phase to the Operational Phase which has an initial 30-year term for operations. The lease term may be extended upon request from TEU and subject to TLO approval.

D. Annual Rental: The Initial Phase will have an annual fee of \$5,000. The Decommissioning or Reclamation Phase will have an annual fee of \$35,000. The Option to Lease fee shall be \$1,000 annually.

E. Production Royalty: During the operations phase, the monetary return to the Trust is determined by a cost-competitive royalty percentage of gross revenue. The royalty percentage will escalate at 10 and 20 years and during each of the three optional five-year renewal periods.

Data: The TLO will receive copies of all data and information obtained as a result of the Option to Lease for Solar and Lease agreements.

VIII. Resource Management Considerations. The proposal is consistent with the “Resource Management Strategy for Trust land,” which was adopted in October 2021 with the Trust and provides for the TLO to maximize return at prudent levels of risk, prevent liabilities, and convert nonperforming assets into performing assets. The subject property is currently non-performing and has liabilities from unauthorized use. This experienced applicant and the proposal is at a minimal risk level while maximizing returns to the Trust and its beneficiaries.

IX. Risk Management Considerations.

A. Performance Risks. Performance risks will be minimized through enforcement of the terms and conditions of the lease, including but not limited to those provisions that address development plan approval, diligent resource development over time and reclamation activities.

B. Environmental Risks. The development activities performed under the lease will be done within the parameters of local, state and federal environmental protection laws that generally apply to private lands. Lease stipulations require

compliance with CERCLA, RCRA, as well as state reclamation requirements. The Lessee will be adequately bonded and ensured.

- C. Public Concerns.** Historically, significant concern has been expressed about the impact of the leasing activities on public resources such as fish and wildlife. Environmental laws, regulations, and specialized operating guidelines have been developed to mitigate potential impacts to public resources. As noted above, the TLO lease will require full compliance with those laws and regulations.

X. Due Diligence.

- A. Site Inspection.** TLO staff frequently visit these parcels as they are road accessible. User developed trails and litter are often observed on the property. Granting a Lessee the use of parcels and development is one of the TLO's primary tools against trespass such as litter and unauthorized trail development.

- B. Valuation.** The fee structure for solar power generation is cost-competitive to solar farms in the lower 48 region of the United States. The determining factors for the royalty established were scale of the project, location, and access to transmission lines.

While the 260-acre, 79,000 solar module, phase one portion of the project will be the largest solar farm in the State of Alaska, it is not considered a large project for developing utility scale power generation. Therefore, the up-front costs are spread over a smaller project with a higher per megawatt cost as compared to other utility scale solar projects.

The distribution of solar energy in Nikiski, AK is similar and not superior to many other areas in the State of Alaska. Therefore, it is considered a good but not superior site for solar power generation.

The subject property has direct access to HEA high voltage transmission lines providing the necessary access to transmit the power generated into the existing grid for the Kenai Peninsula.

Based on the criterion above, a cost-competitive royalty percentage of gross revenue with escalating rates at 10 and 20 years was negotiated. Rate escalations would also occur with each of the optional three, five-year renewal periods. There are no allowable deductions.

- C. Terms and Conditions Review.** Terms and conditions of this agreement are consistent with the TLO's standard negotiated ground lease(s), which best serve the interest of the Trust. Additional solar farm specific terms or conditions may be applied to the agreement. Per standard practice, all agreements will be reviewed by the Department of Law.

- XI. Trust Authority Consultation.** The Alaska Mental Health Trust board of trustees was consulted on February 19, 2026, and the board of trustees concurred with the Executive Director of the Trust Land Office's (TLO) decision to lease Trust parcels SM-1162-01 and SM-1162-04 through a negotiated term lease.

- XII. Public Notice.** The TLO satisfied 11 AAC 99.050 and the Alaska Constitution's notice requirements by providing public notice as follows:

1. in "a newspaper or other publication of general circulation" when it published notice of this decision in Kenai Peninsula Clarion once on March 13, 2026.
2. to the "appropriate municipality" and to "the appropriate Alaska Native regional nonprofit corporation;" on March 13, 2026 via email; and
3. posted on the Alaska Online Public Notice website from March 13, 2026 through April 14, 2026.

11 AAC 99.050 provides a process to provide the public adequate notice so they can engage in this process and comment on the proposed lease. The TLO satisfied 11 AAC 99.050 and there was public engagement in this matter.

The comments received during the public notice period are addressed in the following section.

XIII. Public Comments and Responses. A total of 12 comments were received during the notice period that began on March 13, 2026. As the comments spoke on common topics, each topic will be summarized and addressed.

Comment Topic 1: Three comments were received expressing support for the leasing of the subject lands for the proposed project noting renewable energy benefits, long-term community/state interest, reducing reliance on natural gas, and that the project may serve as inspiration for more renewable energy projects in the future.

Response Topic 1: Comments have been noted.

Comment Topic 2: Six comments expressed concerns in relation to the project location, noting that the project would be too close to residential areas, that better locations for the project exist, desire for the TLO to use the location for other purposes such as housing, concerns about access to the site and the impacts of fencing the project, and why Nikiski is chosen for “eyesores”?

Response Topic 2: The project is similar distance to residential areas as other industrial projects in the region and may be less noticeable given tree coverage and site control measures that the applicant may opt to include such as fencing or buffers. Given the projects proximity to HEA infrastructure and road access, the applicant has identified this parcel as the project’s ideal location.

Comment Topic 3: Seven comments raised concerns about destruction of wildlife habitat (moose, bears, lynx, wolves, coyotes, eagles, and osprey were specifically mentioned), including moose habitat, general ecosystem impacts, and wildfire risk due to electrical infrastructure.

Response Topic 3: The Trust parcel effected by this project is directly adjacent to 1.9 million acres within the Kenai National Wildlife Refuge. All development activities are to be conducted in accordance with all local, state, and federal laws and regulations that govern these activities with respect to wildlife relocation, mitigation measures, and ecosystem impacts. All development and operation plans are developed to minimize wildfire risk with standard site control measures such as buffers, or any other method that the applicant may propose during the final creation of plans.

Comment Topic 4: Three comments stated concerns about solar feasibility in Alaska’s latitude and climate, noting limited winter sunlight, snow removal challenges, need for generators during winter months, and efficiency concerns specific to northern climates.

Response Topic 4: Solar is a renewable energy resource that has been proven in Alaska to be achievable on a utility scale, notably within the Matanuska-Susitna Borough. While the winter months provide unique challenges, the long summer days do offset these and

combined with the applicant's arctic experience in prior projects, they possess the ability to account for the challenges a project like this faces.

Comment Topic 5: Seven comments raised concerns about poor financial returns, cost to consumers, and economic feasibility of the project.

Response Topic 5: The TLO's lease structure and royalty rate are designed to protect the Trust, maximize revenues as compensation to the Trust, and do so in a controlled manner. Functions of the lease, including a phased development approach, are designed to be able to guarantee that financial assurances are in place prior to development.

Although consumer costs are outside the scope of this decision, the TLO considers the project beneficial for both Trust beneficiaries and Homer Electric Association (HEA) members. The project requires an offtake agreement between TUGLIQ Energy USA Inc. and HEA. HEA's mission is to provide safe, reliable electricity to its members and community with excellent customer service and innovative energy solutions at reasonable prices.

Comment Topic 6: Two comments focused specifically on the TLO's obligations under 11 AAC 99.020 and the proposed project, specifically around long-term revenue maximization, protection of the corpus, long-term productivity of Trust land, and use diversity/future options.

Response Topic 6: The issuance of a revenue generating lease on a non-performing asset, while retaining the land is a primary method of ensuring long-term revenue generation. Protection of the corpus is achieved by the TLO's lease agreement that has favorable terms that protect the corpus, prevent unnecessary degradation with strict TLO oversight with field inspection and development plan review/approval process.

Comment Topic 7: Five comments included several alternative uses, none being formal proposals but rather ideas, including housing development, hydropower expansion, agriculture, logging/habitat restoration in other parcels, splitting solar facilities over multiple smaller areas, and natural gas investments.

Response Topic 7: The revenue the Trust stands to receive from a solar project on this parcel is a way the Trust can maximize its revenue from the land prior to other disposals such as housing development, sale, or agriculture development. The development of a solar project does not preclude other future uses of the land after the useable life of the project, after reclamation. The size of the project is not reduced to a smaller footprint to preserve the economics of the project, spreading the development costs over more generating capacity. Natural gas exploration and development is a compatible use that can take place simultaneously to the solar project should an interest be received.

Comment Topic 8: Two comments raised concerns about solar panel disposal, lifespan, and after-life management.

Response Topic 8: The after-life management of the solar panels is the responsibility of TUGLIQ Energy USA Inc.. Standardly, panels are disposed of in accordance with all local, state, and federal laws and regulations, if not reused, refurbished, or recycled.

Comment Topic 9: One comment raised questions regarding the Trust's timing around this project, motivation for Nikiski Senior Center sponsorship, and why this project rather than supporting housing development.

Response Topic 9: The timing of this project is directly tied to a deadline for tax credits on new renewables energy projects that TUGLIQ Energy USA Inc. is attempting to make use of in order for the project to be economical. The Nikiski Senior Center is outside the scope of this decision. This project does not preclude future development of subdivisions or housing development post reclamation/lease expiration or preclude the TLO from similar projects on any of the other Trust owned parcels in the region.

IX. **Best Interest Decision - Conclusion.** The Executive Director finds that the proposed lease is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. This can be addressed by considering the TLO's alternatives to TUGLIQ Energy USA Inc.'s' proposed lease:

1. Do Nothing: refuse the offer to lease the subject lands and discourage further development. This is not a preferred option because it would not maximize revenue from the lands.
2. Alternate Option: offer the lands for competitive leasing. This is not a preferred option because it would prevent the applicant from reaching additional ore reserves at Fort Knox. Further, the applicant owns State of Alaska Mining Claims encumbering the subject lands' mineral rights. To competitively lease the lands would be contrary to the Trust's interest.
3. Proceed as Proposed: receive revenues from lease rentals.

Given that context, the Executive Director finds that the lease of this land will maximize long-term revenue from the land, that it will not affect or harm the trust corpus, that this lease continues to diversify the Trust's land use portfolio, and that with the various conditions and stipulations included in the lease the land will be used prudently, efficiently, and with accountability for the trust and its beneficiaries. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.

IX. **Non-competitive Disposal Determination.** 11 AAC 99.020 (d) allows for the disposal of Trust land through a competitive basis, unless the Executive Director in consultation with the Trust Authority, determines in a written decision required by 11 AAC 99.040 that a non-competitive disposal is in the best interest of the Trust and its beneficiaries. The proposed negotiated leases exceed the anticipated return if the property were subdivided and lots sold. Given the high return, relatively low property value, and net present value of money, the proposed negotiated leases are in the best interest of the Trust and its beneficiaries. If another party submits a qualified offer as explained in Section XIII, the Executive Director may consider a competitive disposal under the authority of this decision.

- X. Available Documents.** Background documents and information cited herein is on file and available for review at the TLO, located at 2600 Cordova Street, Suite 201, Anchorage, Alaska 99503. Phone: (907) 269-8658. Email: mhtlo@alaska.gov.

The disposal action proposed by this decision will occur no less than 20 days after the first publication date of this decision, and after the conclusion of the TLO administrative process. For specific dates or further information about the disposal, interested parties should contact the TLO at the above address, or visit the website at: <https://alaskamentalhealthtrust.org/trust-land-office/>.

- XI. Reconsideration or Appeal.** This Decision constitutes the final agency decision in this matter pursuant to 11 AAC 99.060. To be eligible to file for reconsideration of this Decision, or to file a subsequent appeal to the Superior Court, a person must have submitted written comments during the public notice period. Persons who submitted timely written comments will be provided with a copy of this final written decision and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). A request for reconsideration must be accompanied by the fee established by the Executive Director under 11 AAC 99.130 (set at \$500) to be eligible for reconsideration. The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request for reconsideration, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

For the reasons provided above, the decision to dispose of these Trust lands by leasing them to the applicant is in the best interests of the trust and its beneficiaries and thus is APPROVED:

Signed by:
Jusdi Warner
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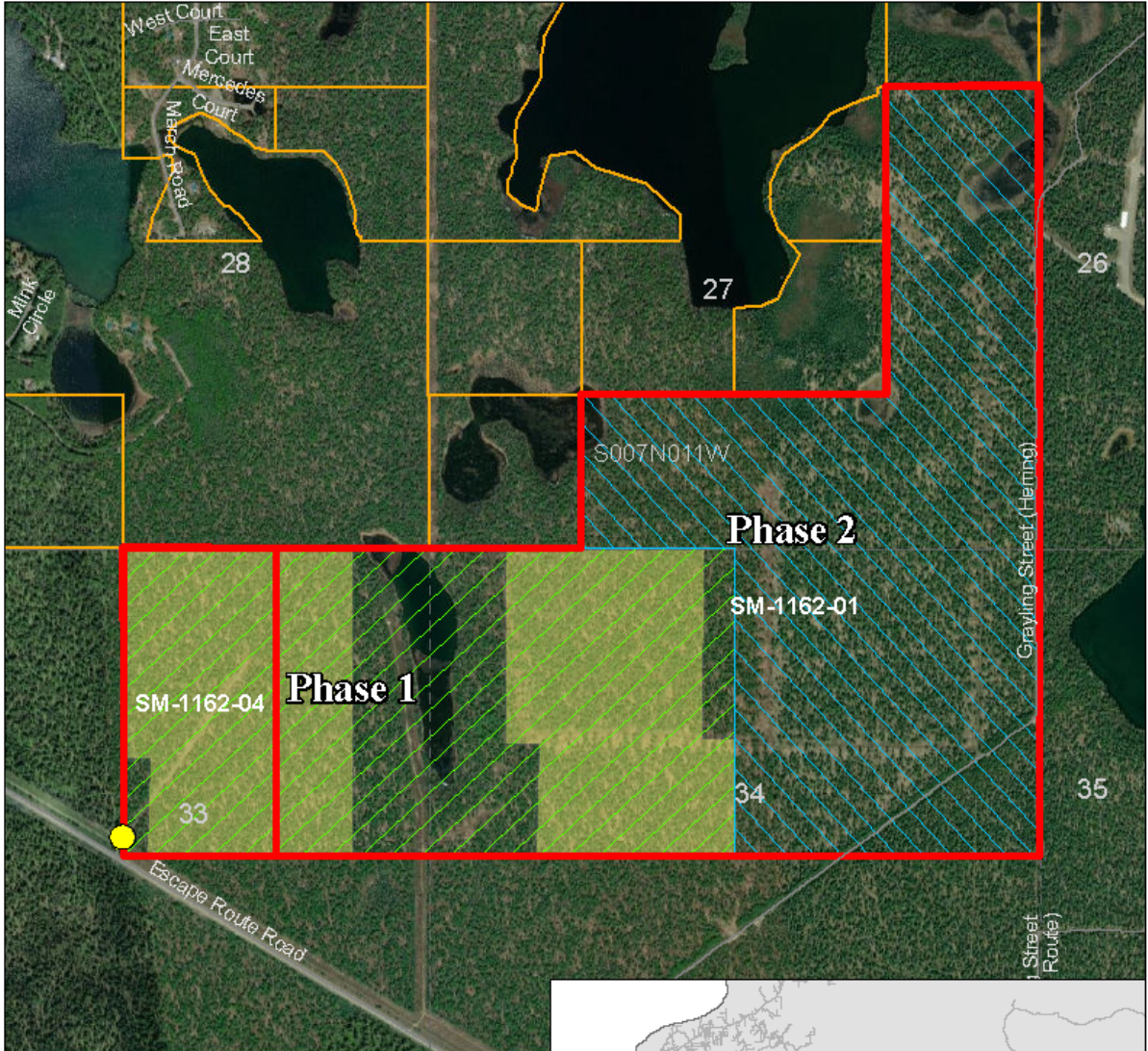
Jusdi Warner
Executive Director
Alaska Mental Health Trust Land Office

5/20/2026

Date

Attachments:
Exhibit A – Area Map
Exhibit B – Draft Lease

Exhibit A Area Map



MHT 9201068

- Grid Interconnection
- Phase 1
- Phase 2
- Phase 1 Solar Array
- MHT 9201068
- Mental Health Parcels



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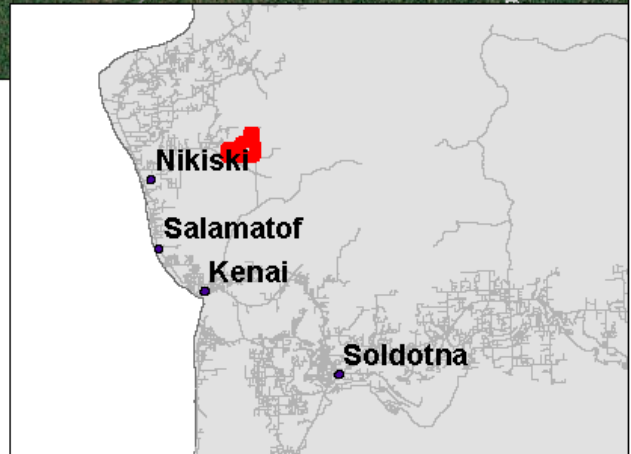


Exhibit B
Draft Lease

Alaska Mental Health Trust Authority
Trust Land Office
GROUND LEASE AGREEMENT

Record this document in the
X Recording District

MHT 9X00XXX

THIS GROUND LEASE AGREEMENT (“Agreement” or “Lease”) is made effective as of May 10, 2024 (“Effective Date”), by and among **THE ALASKA MENTAL HEALTH TRUST AUTHORITY** (“Trust Authority”), a public corporation within the Alaska Department of Revenue (AS 47.30.011 et seq.), acting by and through the State of Alaska, Department of Natural Resources, Trust Land Office (“TLO”), pursuant to AS 37.14.009, AS 38.05.801 and 11 AAC 99, (The Trust Authority and the TLO are collectively referred to as “Lessor”) whose address is 2600 Cordova Street, Suite 201, Anchorage, AK 99503, and **COMPANY** (“Lessee”), whose address is Street, City, State Zip Code.

WHEREAS, Lessee and Lessee’s future assign, X, desires to acquire an option to lease the Property (as defined below) or certain portions thereof for the purpose of constructing and operating thereon a solar photovoltaic electricity generating facility and/or battery energy storage system, together with ancillary facilities related to the foregoing (collectively, the “**Project**”); and

WHEREAS, in consideration of Lessee’s promise to pay rent to the TLO, and other performance to be rendered by Lessee hereunder, TLO has determined that it is in the best interest of the beneficiaries of the Trust Authority to lease to Lessee pursuant to this Agreement the lands described in Paragraph 1 below and depicted in Schedule 1 incorporated by reference in this Lease.

NOW THEREFORE, in consideration of the terms, covenants, conditions, and stipulations set out in this Lease, TLO and Lessee enter into this Lease – the Lease being including and incorporating all attached Schedules -- subject to the following:

A G R E E M E N T

- 1. LEASE.** TLO does hereby lease to Lessee for the term as set out in Paragraph 7 hereof the following described property (“Property”) subject to all the terms and conditions hereof without warranty, over the following described tracts of land within MH Parcel (**enter parcel**):
(insert Legal Description)

Together with all improvements and fixtures now existing on or affixed to the Property, and together with all appurtenances and hereditaments thereto and subject to all valid existing rights.

- 2. RESERVED RIGHTS.** TLO reserves for itself and others all rights not expressly granted to Lessee. These reserved rights include the following, at a minimum:

- a. the right to allow concurrent, compatible users; *provided, that*, such concurrent, compatible users shall only be permitted to the extent that their use of the Property shall be consistent with, and shall under no circumstances conflict with, the Lessee's uses of the Property, the Project and the land including its equipment, improvements and infrastructure and including all rights of the Lessee granted hereunder;
- b. the right to explore for, remove, and dispose of all resources from the Property;
- c. the right to establish or grant easements and rights-of-way upon, in, across, or through the Property for any lawful purpose, including roads, railroads, well sites, pipelines, utility lines and drill holes necessary or convenient for the working of the Property for all resources, or necessary or convenient for access to other land for any useful purpose; and
- d. the right to manage and to convey to third Parties by grant, lease, permit, or otherwise, any and all interests in the Property other than those granted by this Agreement, provided that any such conveyance to a third Party shall be made subject to Lessee's rights under this Agreement.
- e. The rights reserved pursuant to this section shall not be exercised in any manner that interferes with Lessee's rights or operations under this Agreement. TLO shall provide Lessee with prior written notice of TLO's intent to exercise any such reserved rights. TLO and Lessee shall work cooperatively to identify potential conflicts and TLO shall require, as a condition to the exercise by any permittee, lessee, or Lessee of TLO of any of TLO's reserved rights, such terms as appear necessary to avoid interference with Lessee's financings of or grant of security in its equipment, improvements or infrastructure (including the Project), enjoyment of this Agreement or endangerment of Lessee's operations. If at anytime the exercise of any of TLO's reserved rights must cease or a change must be made in the manner or place of such exercise in order to avoid interference with Lessee's enjoyment of this Agreement or endangerment of Lessee's operations, such cessation or change shall occur at no cost to Lessee.

3. STATUTORY RIGHTS.

- a. TLO hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said land above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said land, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other land and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and

railroads, sink such shafts, drill such wells, remove such soil, and to remain on said land or any part thereof for the foregoing purposes and to occupy as much of said land as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

- b. If TLO exercises the rights reserved in this Section 3, TLO agrees that the development, exploration, mining and/or extraction shall not interfere with Lessee's (i) business and activities on the Property, (ii) access to the Property or (iii) rights or operations under this Agreement, including but not limited to avoiding interference with Lessee's financings of or grant of security in the Project, enjoyment of this Agreement or endangerment of Lessee's operations.

4. **MATERIAL RESOURCES.** Unless otherwise provided for below or in other written authorization, the Lessee may not sell or remove from the Property any timber, stone, gravel, topsoil, or any other material valuable for building or commercial purposes ("Material"). Material may be used only in compliance with the terms of the Lease. Lessee has the right to:
 - a. extract and use on the Property at no cost, Material situated on, in, or under the Property; and
 - b. extract and use at no cost, Material situated on, in or under the Property for construction and maintenance of roads reasonably necessary for access to the Property.
5. **RIGHT OF ENTRY.** The TLO shall have the right to enter the Property at all times, in order to examine it, to show it to prospective purchasers or lessees, or to make such repairs, alterations, improvements, or additions as the TLO may deem necessary or desirable. If TLO exercises the rights reserved in this Section 5, TLO agrees that the repairs, alterations, improvements, or additions shall not unreasonably interfere with Lessee's (i) business and activities on the Property, (ii) access to the Property or (iii) rights or operations under this Agreement.
6. **INSPECTION.** The Property shall be open to inspection by the TLO at all reasonable times, but no less than once per year. The TLO may, in its discretion, but not more than once per year, charge Lessee with the inspection costs permissible under 11 AAC 05.010, or its successor regulation, including a reasonable inspection fee, reimbursement for TLO time involved, and/or other associated costs.
7. **TERM.** Unless this Lease is extended or earlier terminated as elsewhere provided in this Agreement, this Lease shall automatically expire as a whole at 11:59 p.m. on December 31, 20XX. There are three development Phases under this lease, as defined in Schedule 5, and the terms of those Phases are as follows:

- a. Phase I (Initial Phase) Term – Phase I will commence on the Effective Date and end on the earliest of (a) the Operations Date (as defined below) or (b) X years after the Effective date (the “Phase I Term”). If the requirements set forth for Phase I in Schedule 5 are not satisfied during the Phase I term, and the TLO has not provided any extensions of time, this Agreement may terminate as provided in Section 25 of this Agreement. If Lessee satisfies the requirements set forth for Phase I in Schedule 5, then Phase I will expire upon the Operations Date, as defined in Section 7(b) of this Agreement. Lessee may terminate this Agreement during Phase I if, per Schedule 5 attached hereto, (i) the Lessee determines the feasibility of the Conversion and other power generation on the Property to be insufficient or (ii) the Lessee fails to secure project financing.
- b. Phase II (Operations Phase) Term – Phase II will commence on the date the utility company approves commercial operations (the “Operations Date”) and terminate on the earlier of (i) commencement of Phase III (as defined below) or X years from the Operations Date (the “Phase II Term”). Lessee will provide TLO an affidavit documenting the Operations Date within 14 days of the operations date. During Phase II, Lessee may complete construction of Solar Power Facilities on any portion of the Property, if not completed during Phase I as approved in writing by this Agreement; continue to engage in Permitted Uses described in Schedule 5. Lessee may also maintain, replace, relocate, or remove the Solar Power Facilities and may Repower pursuant to the terms of this Agreement. Lessee shall provide summary Annual Reports to TLO listing all Improvements, production information and activities, or lack thereof, on the property.
- c. Phase III (Decommissioning Phase) Term – Phase III will commence, in accordance with a Decommissioning Plan Approved by TLO, as described in Section 12(a)(iii), upon the earlier to occur of: (a) for a continuous period of six (6) months or more, Lessee has operated at 15.0% or less of Lessee’s Installed Capacity; except for an event of Force Majeure, any essential maintenance, repair or repowering of the Project, the curtailment by an end user or power purchaser, or any other periods of nonuse that are planned or scheduled by Lessee or otherwise required by a power purchaser or transmission provider; or (b) no fewer than eighteen (18) months before the natural expiration of this Lease. Phase III will continue until the earlier of: (a) completion of the activities in the Decommissioning Plan, or (b) Termination. Decommissioning must be completed within 18 months of the commencement of activities in the Decommissioning Plan approved by TLO but not later than the natural expiration of this Agreement; provided, however, this 18-month period may be reasonably extended in the event of Force Majeure or by application to the TLO for good cause shown. Termination of the Agreement does not relieve Lessee of its decommissioning obligations. TLO shall have discretion to approve or deny the commencement of the Decommissioning Phase.
- d. Installed Capacity Definition. For the purpose of this provision, “Installed Capacity” is the aggregate Manufacturer’s Nameplate Capacity of the Solar Power Devices installed by Lessee on the land.

8. EXTENSIONS. This Agreement may be extended for three (3) additional five-year terms upon six (6) months written notice and request for extension given by Lessee to TLO and written acceptance made by the TLO. TLO shall not unreasonably withhold approval of an extension if the Lessee is in good standing with the terms of this Lease, and the TLO, exercising its discretion, pursuant to the statutory requirements under AS 38.05.801 and 11 AAC 99.010 – .990, determines the extension is in the best interest of the Trust and its beneficiaries. “Good standing” as used in this section means the Lessee is not in breach of any substantive terms of this Agreement at the time and during the Lessee’s request for an extension under this section; the TLO will find the Lessee is in “good standing” for purposes of this section even if the Lessee previously breached this Agreement, but the Lessee cured those breaches. Unless otherwise specified in the written acceptance made by the TLO reasonably agreed between the Parties hereto, all of the provisions of this Agreement shall apply during the extension periods. If the TLO fails to give written notice of its acceptance of Lessee’s request for an extension 30 days prior to the date this Agreement would otherwise expire, then this Agreement shall terminate on that date.

9. CONSIDERATION. Lessee shall annually pay in accordance with the outlined rent schedule as defined in Schedule 6 on or before the (day) of (month) of each year. Payments are due without notification from the TLO and are due in advance of the forthcoming year. This Agreement has multiple phases that each have their own respective compensation rates and amounts.

10. PAYMENT METHOD.

- a. All payments due hereunder (i) shall be made payable to the Trust Land Office, or as otherwise directed by the TLO in writing; (ii) shall reference this Agreement with **MHT 9X00XXX**, which appears on the first page hereof; and (iii) unless otherwise specified by the TLO in writing, shall be tendered to the TLO at:

Financial Services
550 West 7th Avenue, Suite 1410
Anchorage, Alaska 99501-3554

or to a depository designated by the TLO upon thirty (30) days written notice to Lessee.

- b. Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010, the fee specified in AS 38.05.065 (if applicable) or interest at the rate set by AS 45.45.010(a), or the successor statutes and regulations, will be assessed on a past-due account until payment is received by Lessee. Acceptance of a late payment or of a service charge for a late payment is subject to TLO’s rights under this Agreement. A 10-day grace period after the due date is allowed on all installment payments for the purchase of land.
- c. Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010, or its successor regulation, will be assessed for any check on which the bank refuses payment. If the bank refuses payment, Lessee will be notified and the default period will continue to run until payment is satisfied. Late penalties under subparagraph (b) of this provision shall continue to accumulate.

11. ADDITIONAL RENT; TAXES.

- a. a. All taxes, charges, costs, and expenses which the Lessee is required to pay hereunder, including those payable under Sections 9 and 11(b) hereto, together with all interest and penalties that may accrue thereon in the event of Lessee's failure to pay such amounts, and all damages, costs, and expenses which the TLO may incur by reason of any default of the Lessee or failure on the Lessee's part to comply with the terms of this Lease, shall be deemed to be additional rent and, in the event of nonpayment by the Lessee, the TLO shall have all the rights and remedies with respect thereto as the TLO has for the nonpayment of the basic rent.
- b. In addition to any rent owed under this Lease, Lessee shall be liable for and shall pay as and when due any tax assessed exclusively against the Project and any of Lessee's facilities and personal property located on the site during the Term. Lessor shall be liable for and shall pay as and when due all real property taxes assessed against the Property and all improvements thereon, as well as Lessor's personal property located on the Property (but excluding those taxes and assessments which are the Lessee's obligation).

12. EXCLUSION OF WARRANTIES. The TLO makes no warranty, express or implied, has not assumed and shall not have any liability whatsoever, regarding the social, economic, or environmental aspects of the lands, rights and resources subject to this Agreement, including, without limitation, the soil conditions, water drainage, access, natural or artificial hazards that may exist, or the merchantability, profitability, or fitness for any particular purpose and authorizes use of the lands, rights and resources subject to this Agreement without any warranty of habitability.

13. USE OF PROPERTY.

- a. Plan of Operations. Prior to the commencement of each phase of the project, as defined in Schedule 5, Lessee is required to submit to TLO a detailed Plan of Operations for TLO's review and approval. Lessee shall only use the Property in accordance with the approved Plan of Operations during the respective phase of the project.
 - i. Phase I Plan of Operations – Prior to the placement of infrastructure associated with the allowed uses during Phase I, as defined in Schedule 5, Lessee will deliver to TLO a Phase I Plan of Operations to be reviewed and approved by TLO. TLO will undertake commercially reasonable efforts to review the Plan of Operations for Phase I within 90 days of receipt.
 - ii. Phase II Plan of Operations – No later than 90 days before the anticipated transition from Phase I into Phase II, Lessee will submit a Phase II Plan of Operations to be reviewed and approved by TLO, and TLO will undertake commercially reasonable efforts to review the Plan of Operations for Phase II within 90 days of receipt. It is mutually understood Lessee is to informally

conference periodically with TLO prior to this deadline during the development of the Plan of Operations for Phase II to ensure timeliness and for TLO's input into the management of the Property.

- iii. Phase III Plan of Operations – At least 8 months prior to the anticipated transition from Phase II into Phase III, Lessee will submit Phase III Plan of Operations to be reviewed and approved by TLO, and TLO will undertake commercially reasonable efforts to review the Plan of Operations for Phase III within [6 months] of receipt. Lessee is to conference with TLO during the creation of the Phase III Plan of Operations as this will be for the reclamation portions of the project and must be to a standard that TLO determines to be sufficient.
- b. Plan of Operations – Amendments. A Lessee's Plan of Operations may be amended only with the consent and approval of the TLO as outlined in this section. For a Plan of Operations amendment to be approved, the Lessee must first submit its proposed amended Plan of Operations to the TLO. TLO shall review the amended Plan of Operations as follows:
- i. If TLO determines the amended Plan of Operations is within the scope of the Project and does not require a new Best Interest Decision, TLO shall:
 1. not unreasonably withhold approval of the amended Plan of Operations;
 2. shall complete its review of the amended Plan of Operations within 90 days; and
 3. will not charge the Lessee a fee for reviewing the amended Plan of Operations.
 - ii. If TLO determines, in its reasonable discretion, that the amended Plan of Operations is outside the scope of the Project, TLO will:
 1. undertake commercially reasonable efforts to review the amended Plan of Operations within 90 days;
 2. charge the Lessee a reasonable administrative fee for reviewing the amended plan of operations; and
 3. if necessary, complete a Best Interest Decision.
- c. Additional Permitting. Lessee is responsible for obtaining, at its sole expense, all necessary authorizations, permits and/or permission from other property owners and third parties to conduct its activity and for compliance with restrictions and requirements regarding operations that are contained in this Agreement.
- d. Survey. Lessee shall properly locate all activities and improvements within the Property in the form of an As-Built Survey or any other required survey specific to the activity including, but not limited to, Volumetric Surveys, Boundary Surveys, Route Surveys, etc. The survey shall be recorded within two years of the construction of solar producing facilities and no later than five years from the onset of Phase II. If the as-built survey is not recorded within this timeframe the annual fee due to the TLO each

year shall increase an additional percent from the fees due in Schedule 6, or the annual fee shall increase \$25,000, whichever is greater.

The Legal Description found in Paragraph 1 of this agreement shall be replaced using one that is created after the property and improvements have been successfully located with a survey.

- e. Compliance with Law. Lessee shall conduct all of its operations and activities under this Agreement in strict compliance with all provisions of federal, state and local law and in a manner consistent with the permitted uses.
- f. Vegetative Material. Lessee shall not operate any equipment on Trust land outside of the Property without prior written approval by the TLO. Activities employing wheeled or tracked vehicles shall be conducted consistent with current state and federal regulations and in such manner as to reasonably minimize surface damage. Vehicles shall be operated in a manner that reasonably minimizes disturbing the vegetative mat.
 - i. Destruction or removal of the vegetative mat is prohibited by any means except as approved in writing by the TLO.
 - ii. The winter operation of ground contact vehicles for off-road travel must be limited to areas of ground frost or snow cover sufficient to ensure protection of the vegetative matter.
- g. Minimal Disturbance. All activities shall be conducted in a manner that will minimize disturbance of natural draining systems, that will not cause a change in character, pollution, or siltation of streams, lakes, ponds, water holes, seeps, and marshes, and that will not disturb fish and wildlife resources. Cuts, fills, or other activities causing any of the above disturbances, if not repaired, are subject to any corrective action as may be required by the TLO.
- h. Monuments. All survey monuments, witness corners, and/or reference monuments shall be protected against damage, destruction, or obliteration. Any damaged or obliterated markers shall be reestablished at Lessee's expense in accordance with accepted survey practices of the Division of Land and TLO.
- i. Force Majeure. The Lessee will not be responsible for damage to the Property caused by a natural disaster or from an Act of God. In the event of a natural disaster or Act of God, which renders all, or a portion of the Property unleaseable, the TLO will not be obligated to take any actions to provide for continued occupancy by the Lessee as to the affected portion of the Property. In such event, Lessee may choose to vacate or the Parties may mutually agree to terminate this Lease, and under either option the Lessee will remain responsible for compliance with Paragraphs 24 (Disposition of Improvements and Fixtures Upon Termination) and 27 (Surrender of Property) of this Lease, subject to reasonable consideration of the consequences of a natural disaster or Act of God to the Property.

14. LIENS.

- a. Lessee shall not allow any lien to be filed against the lands subject to this Agreement by anyone supplying labor or materials for any improvements or by or for the benefit of Lessee.

- b. Lessee shall keep the Property and every part thereof, including, but not limited to, the estate of the TLO in the Property, and Lessee's improvements at any time located thereon, free and clear of mechanics', materialmen's or any other liens for, or arising out of, or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any operation or use of the Property, any permitted alteration, improvement, or repairs or additions which may be made thereon, or any work or construction by, for, or permitted on or about the Property, and shall at all times promptly and fully pay and discharge any all claims on which any such lien may or could be based.
- c. Lessee shall indemnify, defend and hold TLO harmless from and against all such liens, claims, charges, encumbrances and suits or other proceedings pertaining thereto and all damages, fines, judgments, penalties, liabilities, losses, costs and expenses, including, but not limited to, attorneys', consultants' and experts' fees and any and all sums paid for settlement of claims, incurred by, for or on behalf of TLO in connection therewith.
- d. In addition to those rights set forth in this Lease, if Lessee fails to remove any such lien, claim, charge or encumbrance within fifteen (15) days after the same shall have been placed on the Property, TLO shall have the right, but not the obligation, to cause to be released such lien, claim, charge or encumbrance at Lessee's cost, including payment to the lien claimant, bond or other lawful procedure, and Lessee shall pay, on demand, to TLO, as additional rent under this Lease, all reasonable and documented costs and expenses incurred by, for or on behalf of TLO, including, but not limited to, attorneys', consultants' and experts' fees and costs, in connection with the removal of any such lien, claim, charge or encumbrance, together with interest thereon and a ten percent (10%) administrative fee.
- e. Nothing in this Lease shall be construed as a consent on the part of TLO to subject its lands in the Property to any lien or liability under the lien laws of the State of Alaska.
- f. Notwithstanding section 17 of this Lease, nothing in this section shall be deemed to restrict Lessee's right to pledge or collaterally assign the Project, its equipment, improvements, and/or infrastructure as a collateral security under any financings or tax equity transactions. Further, Lessee has the authority to file fixture filings or any filings necessary to perfect a security interest reflecting Lessee's ownership of the facilities.

15. AMENDMENTS. This Lease may be modified or amended only with the written consent of both parties. The parties' signed document shall: (1) postdate the Effective Date; (2) specifically state the terms of the modification or amendment; and (3) refer to the MHT number written on the first page of this Lease.

16. ASSIGNMENT OF INTEREST AND TRANSFER.

- a. Assignment approval to (financing company). If the Lessee is in good standing with the TLO and the Lessee produces reasonably satisfactory assignment documents, the TLO shall approve a request to transfer the Lease during Phase 1 to (financing company) an (state) based, limited liability company, wholly owned subsidiary of (Lessee), residing at Street, City, State Zip. "Good standing" as used in this section

- means the Lessee is not in breach of any substantive terms of this Agreement at the time and during the Lessee's request for an extension under this section; the TLO will find the Lessee is in "good standing" for purposes of this section even if the Lessee previously breached this Agreement, but the Lessee cured those breaches.
- b. Assignments in General. Except as provided in subsection 16(c), this Agreement or an interest herein may not be assigned or otherwise transferred by Lessee except upon the prior written approval of the TLO, unless otherwise provided for herein. Generally, the TLO, within its sole discretion, reserves the right to reject any proposed assignment. Unless specified otherwise in this subsection, any transfer of interest is not effective unless the transfer is to a Qualified Transferee and the transfer is approved by the executive director of the Trust Land Office, Department of Natural Resources, State of Alaska, or his/her designee, on a form designated by the executive director. Unless specified otherwise in this section, any unauthorized attempt to assign or otherwise transfer any of Lessee's interest under this Agreement is void and of no force or effect whatsoever.
- c. Assignments Exception. The Lessee may, with written notice provided to the TLO, assign this agreement to a non-Qualified Transferee and without the TLO or Lessor's expressed approval only as follows:
- i. any collateral assignment, pledge or mortgage made by Lessee to a financing party, lender or tax equity investor in connection with a financing or tax equity transaction, or for any transaction permitted under Section 17 hereto; or
 - ii. any assignment or transfer to Alaska Electric & Energy Cooperative, Inc. and/or Homer Electric Association, Inc.; or
 - iii. any change of control in which Lessee remains and/or operates under the direct or indirect control of
 1. (financing company); or
 2. a customary tax equity holding company of which (financing company) is a joint member alongside a tax equity investor.
- d. Obligations and Liability. Unless expressly provided otherwise in other TLO documentation, the assignment or transfer of an interest does not relieve the Lessee or any assignees outlined in Section 16(c) of any obligations or liability under this Agreement. Lessee will fully disclose all terms and conditions associated with any proposed assignment or transfer with the understanding that TLO will not unreasonably withhold approval of the proposed assignment or transfer.
- e. Transfer definition. Except as provided in Section 16(c), for the purposes of this provision, a "Transfer" includes, but is not limited to, (1) assignment of any right under this Agreement, (2) delegation of any duty owed by Lessee or any other party under this Agreement, (3) substitution of a new party as the Lessee, (4) sublease (except as permitted in connection with a tax equity transaction or under Section 17 hereto), (5) mortgage or collateral assignment, (6) any change in interest as a result of bankruptcy. or (7) if the Lessee is an entity such as a corporation, partnership, or limited liability company rather than a natural person, any change in the actual control of the entity through ownership or contractual relationship, including, for example but not by way

- of limitation, the sale, pledge or other disposition of a controlling interest in stock or partnership units. A "Transfer" does not include any assignment permitted without consent of Lessor under Section 16(c) hereto.
- f. Strict Compliance. Lessee shall not voluntarily or by operation of law Transfer or encumber all or any part of Lessee's interest in this Agreement except in strict compliance with this section. Any attempted Transfer without such compliance shall be void and shall constitute a breach of this Lease.
 - g. TLO approval required. Other than as provided under Section 16(c) hereto, Lessee may Transfer any interest or rights associated with this Agreement, only upon the prior written approval of the TLO which shall only be granted if the TLO determines within its sole discretion and under applicable law that such Transfer is in the best interest of the Trust as determined under a Trust Benefit analysis and that the proposed transferee is qualified as determined under any applicable regulations and as defined below.
 - h. Qualified Transferee definition. A Qualified Transferee is any person or entity, including a corporate successor of Lessee, whose net worth on the date of assignment is equal to or greater than Lessee's net worth at the commencement of this Agreement or who can otherwise demonstrate to the TLO, in the TLO's exercise of prudent business judgment, that they are financially capable of meeting Lessee's obligations under this Agreement. Net worth shall mean the amount by which the total of all assets of the person or entity exceeds the total of all their liabilities as determined by an independent, certified public accountant, in accordance with generally accepted accounting principles.
 - i. Initiating a Transfer. Other than as provided under Section 16(c) hereto, in order to initiate a proposed Transfer of interest, the Lessee shall submit a written request to the TLO at least 30 days in advance of the proposed Transfer date. This request shall include appropriate documentation sufficient in detail to describe the proposed Transfer, including disclosure of the full consideration to be received by Lessee from the proposed Transfer.
 - j. Liability. In the event of an assignment permitted pursuant to Section 16(c) hereto or a Transfer that substitutes a new Lessee for the transferor Lessee, unless otherwise provided by the TLO in approving the Transfer, the transferor will have no continuing liability to the TLO with respect to any obligation that is imposed by the Agreement after the Effective Date of the Transfer or that is based on an act or omission of the new Lessee occurring after the Effective Date of the Transfer. In the case of any other Transfer, the transferor and the transferee will have joint liability to the TLO for all obligations arising under or associated with the Agreement regardless of when they arise or the identity of the party whose conduct gives rise to them.
 - k. Transfer fee and costs.
 - i. In the event that approval of a Transfer is required hereunder and granted by the TLO, and unless otherwise agreed or performed pursuant to Section 16(a) hereto, Lessee shall pay either (a) a transfer fee equal to a percentage of the full consideration (if the net present value can be determined) received by Lessee from the transferee or (b) some other amount that the parties agree is

appropriate, if the net present value in (a) cannot be determined. The percentage amount in (a) shall be the same as the royalty percentage agreed to in Paragraph 9(b)(ii) or 5% if the project is not in Phase II at the time of the Transfer.

- ii. In the event that a transfer or assignment is performed hereunder as permitted pursuant to Section 16(c)(ii) hereto, Lessee shall pay a transfer fee of \$200,000.00.
- iii. In connection with Transfers proposed to be made to persons that the TLO must determine to be “qualified” the transferor shall reimburse the TLO for up to \$5,000 in out-of-pocket costs incurred by the TLO in making the required determination.

17. Mortgage of Lessee’s Interest.

- a. Lessee may at any time elect to finance all or any portion of its Project with one or more financial institutions, tax equity investors, leasing companies, institutions or affiliates or subsidiaries thereof (each a “**Financing Party**” and collectively, the “**Financing Parties**”) and in connection therewith Lessee may enter into various agreements and execute various documents relating to such financing, which documents may, among other things, assign this Lease and the Easements to a Financing Party, grant a sublease in the Site and a lease of the Project from such Financing Party to Lessee, grant the Financing Parties a sublease or other real property interest in Lessee’s interests in and to the leased lands shown in Schedule 1 as well as improvements and development on these leased lands, grant a mortgage and/or security interest in Lessee’s interest in the Project and/or this Lease and Lessee’s other interests in and to the Site, including, but not limited to, any easements, rights of way or similar interests (such documents, “**Financing Documents**”). TLO acknowledges notice of the foregoing and consents to the foregoing actions and Financing Documents described above, and TLO agrees to execute, and agrees to use best efforts to cause any and all of TLO’s lenders to execute, such subordination agreements, consents, estoppels and other acknowledgements of the foregoing as Lessee or the Financing Parties may reasonably request. TLO agrees that if requested by Lessee, TLO will furnish the Financing Parties with a counterpart of each notice or other document delivered by TLO to Lessee in connection with this Lease.
- b. If the Financing Parties (or their designee) or another Person shall succeed to the rights of Lessee under this Lease through possession or foreclosure action, delivery of a deed (or assignment of this Lease) in lieu of foreclosure or otherwise, TLO shall recognize the Financing Parties (or their designee) or such other Person (the Financing Parties, their designees, or such Person, a “**Successor-Lessee**”), as Lessee under this Lease and TLO and/or such Successor-Lessee shall promptly execute and deliver any instrument that either may reasonably request to evidence such recognition as Lessee under this Lease. Furthermore, this Lease shall continue in full force and effect as a direct agreement between Successor-Lessee and TLO upon all terms, conditions and

covenants as are set forth in this Lease, except that: (i) Successor-Lessee shall assume the obligations of Lessee to be performed hereunder first arising from and after the date such Successor-Lessee succeeds to the rights of Lessee under this Lease, (ii) Successor-Lessee shall promptly cure all outstanding monetary defaults of Lessee (including paying all prior unpaid Rent) and (iii) Successor-Lessee shall promptly cure all other outstanding non-monetary defaults of Lessee that are continuing as of the date such Successor-Lessee succeeds to the rights of Lessee under this Lease, are reasonably susceptible of cure and of which Successor-Lessee has received notice and a reasonable opportunity to cure (in accordance with the provisions of this Section) once it has obtained possession of the Site.

- c. TLO agrees that without the prior written consent of the Financing Parties, TLO shall not: (i) accept a surrender of this Lease, (ii) permit the subordination of this Lease to any mortgage encumbering the fee estate of the Site, or TLO's interest in this Lease, or (iii) in the event of any bankruptcy of Lessee, file any application seeking to reject this Lease under the United States Bankruptcy Code.
- d. Lessee shall provide TLO with the appropriate contact information needed to contact and provide notice to the Financing Parties as outlined within this Lease. Further, Lessee has an ongoing duty to update the necessary contact information during the life of this Lease.
- e. "Project" as used in this section refers to the Lessee's equipment, improvements, infrastructure and other property – including intellectual property – it uses to undertake the anticipated uses of the land under this Lease.
- f. A "Financing Party" that the Lessee enters into a financing agreement with under this section constitutes a "security interest holder" for purposes of this Lease.

18. ACQUISITION OF RIGHTS OR INTERESTS. The terms of this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. The burdens of the easements and all other rights granted to Lessee in this Agreement shall run with and against the site and the Property and shall be a charge and burden on the site and the Property and shall be binding upon and against TLO and its successors, assigns, permittees, licensees, lessees, employees and agents. The Site, including the easements and all other rights granted to Lessee in this Lease, shall inure to the benefit of Lessee and its successors, assigns, permittees, licensees and lessees. TLO acknowledges that any sale or conveyance of the Property shall be subject to the leasehold and easement interests of Lessee in this Lease.

19. CONDEMNATION OF PROPERTY OR IMPROVEMENTS. If the whole or any part of the Property is taken by any authorized body or person vested with the power of eminent domain, by negotiation, court action, or otherwise, the following provisions shall control:

- a. If the entire Property is taken by condemnation, this Lease and all rights of the Lessee will terminate as soon as practicably possible. Advance rent received by the TLO shall be returned on a pro rata basis to reflect the unused portion of rent remaining from the date the Lessee is required to surrender possession of the Property. The TLO is entitled to all condemnation proceeds, except that the Lessee will be entitled to receive from the condemning authority that portion of the proceeds attributable to the fair market value, as determined in the condemnation proceedings, less any legal fees and costs incurred by TLO to address such point in such proceedings, of Lessee's interest in any buildings or improvements taken that were placed on the condemned Property by the Lessee in conformance with this Lease. TLO shall have no duty whatsoever to pursue any compensation for Lessee's interest under the Lease or otherwise in any condemnation proceedings (or negotiations with any agency or body with the power of eminent domain) and it shall be Lessee's sole responsibility and obligation to raise and pursue such claims, if any, against the condemning authority. If Lessee fails to do so, it waives all rights to any portion of the proceeds from the condemnation. Notwithstanding the foregoing, if, in Lessee's reasonable discretion, the site is not suitable for Lessee's intended use following such condemnation or transfer in lieu thereof, Lessee may terminate this Agreement.
- b. If only a portion of the Property is taken, then the following shall apply:
 - i. If the taking by condemnation materially affects the use being made by Lessee of the Property, the Lessee shall have the right to elect to terminate the Lease by written notice to the TLO received by TLO not later than 180 days after the earlier of the date of taking or the date of possession.
 - ii. If the Lessee elects to terminate, the provisions in subparagraph(a) of this paragraph shall govern the condemned portion of the Property and the covenants and conditions of the Lease govern disposal of the remainder of any buildings or improvements made by the Lessee in accordance with the terms of the Lease.
 - iii. If the conditions set forth in (b)(i) above are not applicable or if Lessee elects not to terminate, the Lease continues and the TLO is entitled to the full condemnation proceeds except that Lessee shall be entitled to receive from the condemning authority the portion attributable to the fair market value (as determined in the condemnation proceedings), less any legal fees and costs incurred by TLO to address such point in such proceedings of Lessee's interest in the Property including, buildings or improvements taken that were placed on the condemned portion of the Property by the Lessee in accordance with the provisions hereof plan. TLO shall have no duty whatsoever to pursue any compensation for Lessee's interest under the Lease or otherwise in any condemnation proceedings (or negotiations with any agency or body with the power of eminent domain) and it shall be Lessee's sole responsibility and

obligation to raise and pursue such claims, if any, against the condemning authority. If Lessee fails to do so, it waives all rights to any portion of the proceeds from the condemnation. Rent at the existing rate will terminate on the date the Lessee is required to surrender possession of the condemned portion of the Property. Except as it may be adjusted from time to time under the covenants and conditions of the Lease and applicable statutes, rent for the balance of the term will be adjusted by the TLO to reflect the portion of the Property taken.

20. WARRANTIES. At any time on or after the Effective Date, Lessee may obtain for itself and/or any Financing Party, at Lessee's expense, an ALTA Extended Coverage policy of title insurance in a form and with exceptions acceptable to Lessee and/or such Financing Party in its sole discretion (the "**Title Policies**"). TLO agrees to cooperate with Lessee in its efforts to obtain the Title Policies, and TLO shall take such actions as Lessee or any Financing Party may reasonably request in connection therewith. Lessee represents and warrants that:

- a. It has the capacity to enter into and perform the obligations under this Agreement and all transactions contemplated herein, and all corporate and other actions required to authorize it to enter into and perform this Agreement have been properly taken;
- b. It will not breach any other agreement or violate any law or regulation by entering into or performing this Agreement;
- c. It has had a full opportunity to inspect the Property and has determined that they are suitable for the intended use and accepts the Property "as is" and "where is" with all faults;
- d. It has read and is familiar with the obligations of this Agreement, all operations will be conducted in strict compliance with this Agreement, and it has notified all of its agents, employees and contractors similarly; and
- e. This Agreement has been duly executed and delivered by it and is valid and binding upon it in accordance with the terms, including the representations and warranties set forth herein.

21. VALID EXISTING RIGHTS. The Lessee's use of the Property shall not interfere with valid existing rights, if any, that exist upon the Effective Date of this Agreement, without prior written approval from the Party holding those rights.

22. INSPECTION/RECORDS.

- a. Throughout the term of this Agreement and for at least three years following termination, Lessee shall keep and retain in its possession books, reports and records (collectively referred to as "Records") concerning the operations and activity conducted under this Agreement or on lands subject to this Agreement. Lessee shall permit the TLO to examine the Records at all reasonable times. As to all such Records, the Lessee shall use consistently applied generally accepted accounting procedures when applicable.

- b. The Property shall be open to inspection by the TLO at all reasonable times, but no less than once per year. The TLO may, in its discretion, charge Lessee with the inspection costs permissible under 11 AAC 05.010, or its successor regulation, including a reasonable inspection fee, reimbursement for TLO time involved, and/or other associated costs.

23. LAND ALTERATIONS DUE TO NATURAL OR ARTIFICIAL CAUSES. The interest described in this Lease constitutes the entire Property. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the Property and TLO acquires title to those accredited lands, the Lessee will have a right of first refusal to occupy or use those accredited lands under an amendment to the Lease, at the same pro rata price, terms and conditions as contained in the original Lease at the time of amendment. The rules of law applicable to accretion or reliction of land apply to this Lease, and to the interest described in this Lease.

24. NO WAIVER. The receipt of compensation by TLO, with or without knowledge of any default on the part of the Lessee, is not a waiver of any provision of this Agreement. No delay or omission by TLO to exercise any right or power accruing upon any noncompliance or default by Lessee with respect to any of the terms hereof shall impair any such right or power, or be construed to be a waiver thereof. Subject to the terms of this paragraph, every such right and power may be exercised at any time during the continuance of such default. It is further agreed that a waiver by TLO of any of the covenants and agreements hereof to be performed by the other shall not be construed to be a waiver of any succeeding or previous breach thereof or of any other covenants or agreements herein contained.

25. TERMINATION/DEFAULT.

- a. General. If the Lessee defaults on the performance of any of the covenants or conditions of this Lease, and the default is not remedied within 30 days after written notice of such non-monetary default or within 10 days after written notice of any monetary default has been received by the Lessee, or within any additional period the TLO allows in writing for good cause, the Lessee will be subject to all remedies available to TLO at law and equity. The TLO may include in the notice of the default or give a separate written notice stating that if the default is not remedied, this Lease shall terminate on a certain date, which shall be at least 30 days after receipt of the first notice. Upon the date specified in such notice, unless the default has been remedied, the Lease shall expire automatically without further notice or action by the TLO and this Lease and all rights of the Lessee under the Lease shall terminate. Upon termination of the Lease, Lessee shall peacefully quit the Property, the TLO shall have an immediate right to possession of the Property and any possession by the Lessee thereafter shall be unlawful. It is specifically agreed that no judicial action shall be necessary to terminate this Lease or to allow the TLO to retake possession in the event of default by the Lessee. No improvements may be removed from the Property while the Lease is in default except with the TLO's prior written approval. The TLO is not liable for any expenditure made or undertaken by the Lessee under this Lease. In event of default,

- Lessee shall be liable to TLO for the full actual amount of all costs or fees, including attorney's fees, reasonably incurred by the TLO for the enforcement of this Lease.
- b. Phase 1 Termination by Lessee. In the event the Lessee is unable to secure project financing or Power Purchase Agreement approved by the Regulatory Commission of Alaska (RCA), during Phase 1 of the Lease and ahead of commencing construction, the Lessee may terminate this Agreement as provided in this Lease.
 - c. Termination due to resource damage and remediation. Notwithstanding the above, if in the sole, reasonable discretion of the TLO, the default is resulting in resource damage, the TLO, without waiving or releasing any obligation or default, shall have the right, but shall be under no obligation, to step and cure the default immediately and charge Lessee with the costs of curing said default.
 - d. Security Interest Holder's Opportunity to Cure Lessee's Failure. If the Lessee fails to remedy the default within the time allowed in subparagraph (a) of this Paragraph, the holder of an approved security interest who has received notice under subparagraph (a) of this Paragraph may remedy the default. The holder shall act within 60 days from the date of receipt of notice under subparagraph (a) of this Paragraph, or within any additional period the TLO may in its sole discretion allow for good cause shown.
 - e. Rights upon Termination. If this Lease is terminated, the TLO may immediately enter, or reenter and take possession of the Property. Any entry, reentry, possession, repossession, or dispossession by the TLO, whether taken with or without judicial action, does not absolve, relieve, release, or discharge the Lessee, either in whole or in part, of any liability under the Lease.
 - f. Post-Termination. At any time after termination, due to substantial default by the Lessee under this Lease, the TLO may re-let the Property, or any part thereof, in the name of the TLO for such terms and on such conditions as the TLO may determine, and may collect and receive the rent therefor. The TLO shall not be required to account for or pay to the Lessee any excess compensation received as a result of such re-letting. The Lessee shall be liable for any deficiency, and for all reasonable and justifiable costs, expenses, and fees incurred by the TLO arising out of the default, including the TLO's efforts to re-let the Property.
 - g. Lessee's Default. Lessee acknowledges and agrees that upon Lessee's default in payment of rent and TLO's retaking of the Property, that TLO's remedies include but are not limited to the right of distraint as against personal property on the Property and that such personal property may be seized and sold by auction or other reasonable commercial manner without notice or hearing, with the proceeds less all of TLO's costs associated with the sale of such personal property to be applied against the amounts owed by Lessee under the Lease.
 - h. Limitations. No right or remedy conferred upon or reserved to the TLO hereunder or under applicable law or in equity, is intended to be exclusive of any other right or remedy available herewith or thereunder, and each and every such right and remedy shall be cumulative.
 - i. Substantial Default Definition. For the purpose of this provision, "Substantial Default" is the gross violation of any condition or covenant of this Lease or applicable law, any

gross failure to comply with the Operations Plans as approved by the TLO, and any failure to pay sums when due.

26. DISPOSITION OF IMPROVEMENTS AND FIXTURES UPON TERMINATION.

- a. Within 60 days, or such other period as agreed between the Parties, after either the partial or complete surrender or termination of this Lease or the completion of all activities required by the approved Plan(s) described in Paragraph 13 on the surrendered or terminated portion of the Property (whichever is later), Lessee shall remove, to the extent ordered by TLO, and otherwise may remove, from the surrendered or terminated portion of the Property all equipment, improvements, and fixtures owned, placed, or suffered to be placed on, in, or under said surrendered or terminated portion of the Property by Lessee.
- b. Upon expiration of such period and at the option of TLO, any equipment, improvements, and fixtures which Lessee has not removed from the surrendered or terminated portions of the Property shall either be removed by TLO at Lessee's expense or shall become the property of TLO. The actual expenses of such removal, including compensation for TLO's time involved relating to the removal, may be recovered at TLO's discretion from the performance deposit or bond (if any), the proceeds of any sale of such equipment, and/or any other sources available to the TLO at law or in equity.
- c. After any improvements have been removed as provided above, Lessee shall be responsible for all costs associated with remediating the land and returning it to a state similar to what it was prior to the lease. The actual expenses for remediation may be recovered at TLO's discretion from the performance deposit or bond (if any), the proceeds of any sale of equipment or improvements not removed, and/or any other sources available to the TLO at law or in equity.
- d. The disposition of improvements and remediation of the land shall be consistent with the reclamation requirements of Phase III of this agreement, as described in Schedule 5 herein.

27. INDEMNITY TO STATE OF ALASKA, TRUST LAND OFFICE, AND TRUST AUTHORITY.

- a. Lessee shall protect, defend, indemnify, and hold harmless the State of Alaska, Department of Natural Resources, the Trust Land Office, the Alaska Mental Health Trust Authority, and their respective officers, directors, employees, volunteers, agents, successors, and assigns (the "Indemnities") from and against all liens, claims, demands, fines, penalties, and causes of action of every kind and character without limit, including claims for loss or damage to property, or injury to any person, or release or discharge of any hazardous substance arising from, or in connection with, any act or omission committed under this Agreement by or on behalf of Lessee, except for damage or injury to the extent caused by the gross negligence or willful misconduct of any Indemnitee.

- b. Lessee represents and warrants to the TLO that the potential liabilities that may arise under this Agreement, including the liabilities assumed in the indemnification clause, are fully insured by a policy or policies of insurance purchased by Lessee from insurance companies satisfactory to the TLO and that the full limits of Lessee's policy or policies are available to protect the TLO and the Lessee from such liabilities.
- c. The TLO shall not be responsible for any defect or change of condition in the Property, whether to any person or property, due to any cause whatsoever, including, but not limited to, damage done by flood, earthquake, fire, utility outage or acts of other tenants in the building or other persons or entities, except duly authorized employees or agents of the TLO.
- d. The Lessee agrees to reimburse the TLO for any and all necessary expenses, attorney's fees, and costs incurred in the non-judicial or judicial enforcement of any part of the foregoing indemnity provision.

28. ENVIRONMENTAL COMPLIANCE.

- a. General. The Lessee shall, at the Lessee's own expense, comply with all existing and hereafter enacted state and federal environmental responsibility laws ("Environmental Laws"). The Lessee shall, at the Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws. As used in this Agreement, the term "Hazardous Materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.
- b. Remedial Action Plan. Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by Hazardous Materials at the Property that occurs during the term of this Agreement or arises out of or in connection with the Lessee's use or occupancy of the Property, then the Lessee shall, at the Lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. The Lessee's obligations under this section shall arise if there is any event or occurrence at the Property during the term of this Agreement, or arising out of or in connection with the Lessee's use or occupancy of the Property that requires compliance with the Environmental Laws.
- c. Duty to provide information to TLO. At no expense to the TLO, the Lessee shall promptly provide all information requested by the TLO for preparation of affidavits or other documents required by the TLO to determine the applicability of the Environmental Laws to the Agreement, and shall sign the affidavits promptly when requested to do so by the TLO.
- d. Indemnification. The Lessee shall indemnify, defend, and hold harmless the TLO from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal,

- release, spill, or discharge of or contamination by Hazardous Materials at the Property that occurs during the term of the Agreement or arises out of or in connection with the Lessee's use or occupancy of the Property; and from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of the Lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or contamination that occurs during the term of this Agreement or arises out of or in connection with the Lessee's use or occupancy of the Property, except to the extent the discharge of or contamination by Hazardous Materials at the Property is caused by the gross negligence or willful misconduct of the TLO and their respective officers, directors, employees, volunteers, agents, successors, and assigns.
- e. Discharges. The Lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or Hazardous Materials into the atmosphere, ground, wastewater disposal system, sewer system, or any body of water. If the presence of any Hazardous Material caused or permitted by Lessee results in any contamination of the lands and resources subject to this Agreement, Lessee shall promptly take all actions at its sole expense as are necessary to return the lands and resources subject to this Agreement to the condition existing prior to the introduction of any such Hazardous Material in a manner consistent with applicable law, and to the satisfaction of any governmental agency having jurisdiction over the matter.
 - f. Legal Action. In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be rebuttably presumed that any environmental contamination of the Property (i) has been released on the Property; (ii) has resulted from acts or omissions of the Lessee or its agents; and (iii) has occurred during the term of this Agreement. The Lessee has the burden of rebutting the presumptions by clear and convincing evidence.
 - g. State of Alaska's powers and rights. This section of this Agreement is not intended to in any way alter the State of Alaska's powers and rights or the Lessee's duties and liabilities under Title 46 (or its successor) of the Alaska Statutes or other state, federal, or municipal statutes, regulations, or ordinances. The obligations and provisions of this section shall survive the termination of this Agreement.

29. SURRENDER OF PROPERTY.

- a. Upon the expiration, termination, or cancellation of this Lease, the Lessee shall peacefully quit the premises, leave and deliver up property in as good a condition as was in effect at the commencement of this Lease, excepting reasonable wear and tear associated with use for intended and approved purposes [including the deposit of mining overburden]. Lessee shall return the premises to the TLO free and clear of all liens and encumbrances arising by, through or under Lessee, its agents or subcontractors.

- b. Lessee may upon 60 days written notice to the TLO surrender all or part of the Property, with the understanding that such surrender is subject to written acceptance by the TLO. A partial or unapproved surrender shall not reduce Lessee's obligation to reclaim or otherwise comply with other obligations that may have accrued as a result of Lessee's activities on the surrendered ground. A total, approved surrender of the Property by Lessee shall result in termination of this Agreement. Lessee may upon 60 days written notice to the TLO surrender all or part of the lands, rights and resources subject to this Agreement, with the understanding that such surrender is subject to written acceptance by the TLO. A partial or unapproved surrender shall not reduce Lessee's obligation to reclaim or otherwise comply with other obligations that may have accrued as a result of Lessee's activities on the surrendered ground. A total, approved surrender of the Property by Lessee shall result in termination of this Agreement.

30. HOLDING OVER. If Lessee shall, with the written consent of TLO, hold over after the expiration of the term of this Lease, such tenancy shall be for an indefinite period of time on a month-to-month tenancy, which tenancy may be terminated with ten (10) days prior notice by TLO. During such tenancy, Lessee agrees to pay TLO at an equal rate to 120 percent of 1/12th of the annual rate in effect immediately prior to the holding over, unless a different rate shall be agreed upon in writing, and Lessee shall be bound by all of the other terms, covenants and conditions of this Lease, so far as applicable.

31. FAILURE OF TITLE.

- a. TLO makes no representations or warranties, express or implied, as to title to, access to, or quiet enjoyment of, the property or any portion thereof. Lessor expressly disclaims liability to the Lessee for any deficiency in title, or difficulty in securing access, to the Property.
- b. If all or part of the Property has been selected by the State of Alaska under the laws of the United States granting land to the state, but the land has not been patented to State of Alaska by the United States, then this Agreement is a conditional Agreement as provided by law until the patent becomes effective. If, for any reason, the selection is not finally approved, or the patent does not become effective, any rental, royalty, or other production or profit-based payments made to TLO under this Agreement will not be refunded.

32. GENERAL.

- a. Performance and Reclamation Deposit/Bonding. In order to secure its performance hereunder and to secure return of the Property in good condition, Lessee shall furnish a performance and reclamation deposit/bond/surety or evidence of an existing performance and reclamation deposit/bond/surety before agreement issuance, prior to transfer to phase II, and prior to phase III in an amount as set forth on Schedule 4 and shall maintain such performance and reclamation deposit/bond/surety during the term hereof. Lessee may be required to furnish an additional performance and reclamation deposit/bond/surety where a greater amount is reasonably justified by a change in the

use and degree of risk involved in the types of operations being or proposed to be carried out under this Agreement. In lieu of the performance and reclamation deposit/bond/surety required under the preceding sentence Lessee may, with the TLO's approval, furnish and maintain a statewide performance and reclamation deposit/bond/surety, in accordance with any applicable regulations.

- b. Insurance. Without limiting Lessee's indemnification obligation, Lessee shall purchase, at its own expense, and maintain in force at all times during the term of this Agreement, the policies of insurance specified on Schedule 2. Required types of insurance may include, but are not limited to, comprehensive general liability insurance, builder's risk insurance, workers' compensation insurance, and comprehensive automobile and/or aircraft liability insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Lessee's policy contains higher limits, the TLO shall be entitled to coverage to the extent of such higher limits. Certificates of insurance must be furnished to the TLO upon execution of this Agreement and must provide for a thirty (30) day prior written notice to the TLO of cancellation, nonrenewal or material change of the policies. Failure to furnish satisfactory evidence of insurance or the lapse of a policy is a material breach and grounds for termination of this Agreement. Each Worker's Compensation Insurance policy shall be endorsed with a waiver of subrogation in favor of the TLO and the Trust Authority. All other insurance policies required by this Agreement shall be endorsed to provide that such insurance shall apply as primary insurance and that any insurance or self-insurance carried by either the TLO or the Trust Authority shall be excess only and shall not contribute to the insurance required by this Agreement; shall be endorsed to name the TLO and the Trust Authority as additional insureds; shall provide for a waiver of subrogation in favor of the TLO and the Trust Authority; and shall provide that any loss shall be payable notwithstanding any act of negligence of TLO, Lessee, or any transferee or other occupant of the Property which might otherwise result in a forfeiture of said insurance. All endorsements shall reference this Agreement. All insurance shall be on an occurrence and not a "claims made" basis. TLO shall have the right, but shall not be obligated, to pay any delinquent premium on any of Lessee's insurance policies if found necessary to prevent a cancellation, non-renewal or material alteration thereof; and Lessee shall within five (5) days, pay the delinquent premium, together with a ten percent (10%) administrative fee, as additional payments under this Agreement.
- c. Notices. Any notices required under this Agreement shall be deemed delivered upon receipt if personally delivered in writing, upon confirmation of successful transmission if sent via facsimile, or five (5) days after deposit in the United States mail, postage prepaid, and addressed as set forth in this Agreement if mailed. Either Party may change its notice address by effective written notice given to the other Party.

If to Trust Land Office (TLO):

Trust Land Office
2600 Cordova Street, Suite 201
Anchorage, Alaska 99503
Attention: Executive Director

If to Lessee:

Company
Address
City, State Zip
Attention: Title

- d. Amendment/Modification. This Agreement may be modified or amended only by a document signed by both Parties hereto, which postdates the Effective Date, specifically states the terms of the modification or amendment, and refers to the MHT number written on the first page hereof.
- e. Severability. If any clause or provision of this Agreement is determined illegal, invalid, or unenforceable, in a final judicial proceeding by a court of competent jurisdiction, then the remainder of this Agreement will not be affected, and the Agreement shall be automatically reformed to carry out the intent of the Parties hereto without regard for such clause or provision.
- f. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, notwithstanding the fact that all Parties are not signatories to the original or the same counterpart.
- g. Compliance with Governing Law. This Agreement is subject to all applicable local, state and federal statutes and regulations in effect on the Effective Date of this Agreement and to all such statutes and regulations that may become effective on or after the Effective Date, except those inconsistent with The Trust principals imposed on the state by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709. See AS 38.05.801. A reference to a statute or regulation in this Agreement includes any subsequent change in that statute or regulation whether by amendment, repeal or replacement and any successor statute or regulation. All references to specific governmental agencies made herein include any successor agency or different agency that may assume the duties or jurisdiction of the referenced agency. In case of conflicting provisions, the applicable statutes, regulations and ordinances take precedence over this Agreement. This Agreement shall not be construed as a grant or recognition of authority for promulgation or adoption of municipal ordinances that are not otherwise authorized.
- h. Authority & Interpretation. This Agreement is made pursuant to AS 37.14.009(a)(2), AS 38.05.801 et seq. and 11 AAC 99 et seq. This Agreement and the respective rights and obligations of the Parties hereunder shall be construed and interpreted as a contract under the laws of the State of Alaska, without regard to its conflict of laws principles.

Specifically, all words and phrases used in this Agreement are to be interpreted in conformance with AS 01.10.040. This Agreement shall be interpreted so as to carry forward the intent of the Alaska Mental Health Act of 1956, P.L. 84-830 70 Stat. 709 and AS 38.05.801 et seq. and regulations promulgated thereunder with maximum force and effectiveness.

- i. No Discrimination. Lessee and Lessee's subcontractors shall not discriminate against any employee or applicant because of race, religion, marital status, change in marital status, pregnancy, parenthood, physical handicap, color, sex, age, or national origin as set out in AS 18.80.220. Lessee and its subcontractors shall, on beginning any operations under this Agreement, post in a conspicuous place written notices setting out this nondiscrimination policy.
- j. Trust Land Office. The Trust Land Office is executing this Agreement as agent for the Alaska Mental Health Trust Authority, a public corporation within the Alaska Department of Revenue under AS 47.30.011 et seq., as established by Chapter 66, Session Laws of Alaska, 1991, in order to implement the State's obligation as trustee of the Trust established by the Alaska Mental Health Enabling Act of 1956, (P.L. 84-830, 70 Stat. 709), in accordance with State v. Weiss, 706 P.2d 681 (Alaska 1985). Neither the TLO nor the Trust Authority undertake any responsibility to act as a regulator as to this Agreement, or as to any operations of Lessee. Lessee is solely responsible to conduct itself in all respects in conformance with the regulations of the state and federal regulatory authorities having jurisdiction over Lessee and its activities under this Agreement.
- k. Parties.
 - i. References to Lessee and TLO shall include their respective agents, employees and subcontractors.
 - ii. Nothing in this Agreement shall be construed to make the TLO an agent, partner or joint venturer with Lessee.
- l. Historic, Archaeological Sites. No historic site, archaeological site, or camp, either active or abandoned, shall be disturbed in any manner, nor shall any item be removed therefrom. All activities shall be conducted in accordance with AS 41.35.010 et seq., or its successor statute, which prohibits the appropriation, excavation, removal, injury or destruction of any historic, prehistoric, or archaeological resources of the State. If Lessee discovers any sites during the term of the Agreement, Lessee shall promptly notify the State of Alaska Division of Parks and Outdoor Recreation, State Historic Preservation Office and TLO.
- m. Survival. The representations and warranties of both Parties shall survive the termination of this Agreement, unless otherwise provided under this Agreement.
- n. Effective Date. As used in this Agreement, the effective date is the date the Agreement is signed by the Trust Land Office.
- o. Entire Contract/Agreement. All prior oral and written understandings are merged herein, and no provision hereof may be waived except in writing signed by the Party to be charged with such waiver. Any amendment to this Agreement must be executed in writing by both Parties. This Agreement shall not be construed more strongly against

one Party than the other. All rights and obligations of the Parties hereunder shall bind and inure to the benefit of their respective successors and assigns.

- p. Exclusive Jurisdiction and Venue. In any legal action arising out of or related to this Agreement, the Parties agree that the laws of the State of Alaska shall apply and the Agreement shall be construed under Alaska law. The Parties also agree that jurisdiction and venue of such action shall lie exclusively with the courts for the Third Judicial District for the State of Alaska, at Anchorage, Alaska, and consent to personal jurisdiction in such courts.
- q. Headings. Paragraph headings are not part of this Agreement, shall have no bearing on the interpretation of this Agreement, and are inserted only for convenience.
- r. Memorandum of Lease. TLO and Lessee agree, upon the request of either Party, to execute a memorandum of lease which may be recorded.
- s. Annual Reporting. Lessee is required to submit an Annual Report to TLO at the end of each lease year on the anniversary of the Agreement. This report is to outline any and all work, construction, studies, activity performed, including lack thereof, within the project. Photos of the activities are to be included as well. This is to be submitted in addition to the reporting requirements set out by the Percent Rent Payments or elsewhere seen in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date above written.

TRUST LAND OFFICE

LESSEE

ALASKA MENTAL HEALTH TRUST AUTHORITY

Company

By its agent: Trust Land Office

By: Jusdi Warner
Its: Executive Director

By: Name
Title: Title

Alaska Mental Health Trust Authority, TLO, Lessor
STATE OF ALASKA)

) ss.

THIRD JUDICIAL DISTRICT)

This is to certify that on this ___ day of _____, 20___, personally appeared **Jusdi Warner, Executive Director** of the Trust Land Office, and who acknowledged to me that he/she executed the foregoing instrument, on behalf of the Trust Land Office, as agent for the Alaska Mental Health Trust Authority, freely and voluntarily and for the purposes therein stated.

Notary Public in and for Alaska
My Commission expires: With Office

Company, Lessee
STATE OF _____)

) ss.

____ JUDICIAL DISTRICT)

This is to certify that on this ___ day of _____, 20___, before me personally appeared _____, the _____ of Company, known to me to be the person named and who acknowledged to me that he/she executed the foregoing instrument in the above stated capacity on behalf of the said COMPANY, freely and voluntarily and for the purposes therein stated.

Notary Public in and for _____
My Commission expires: _____

AFTER RECORDING, RETURN DOCUMENTS TO:

ORIGINAL:

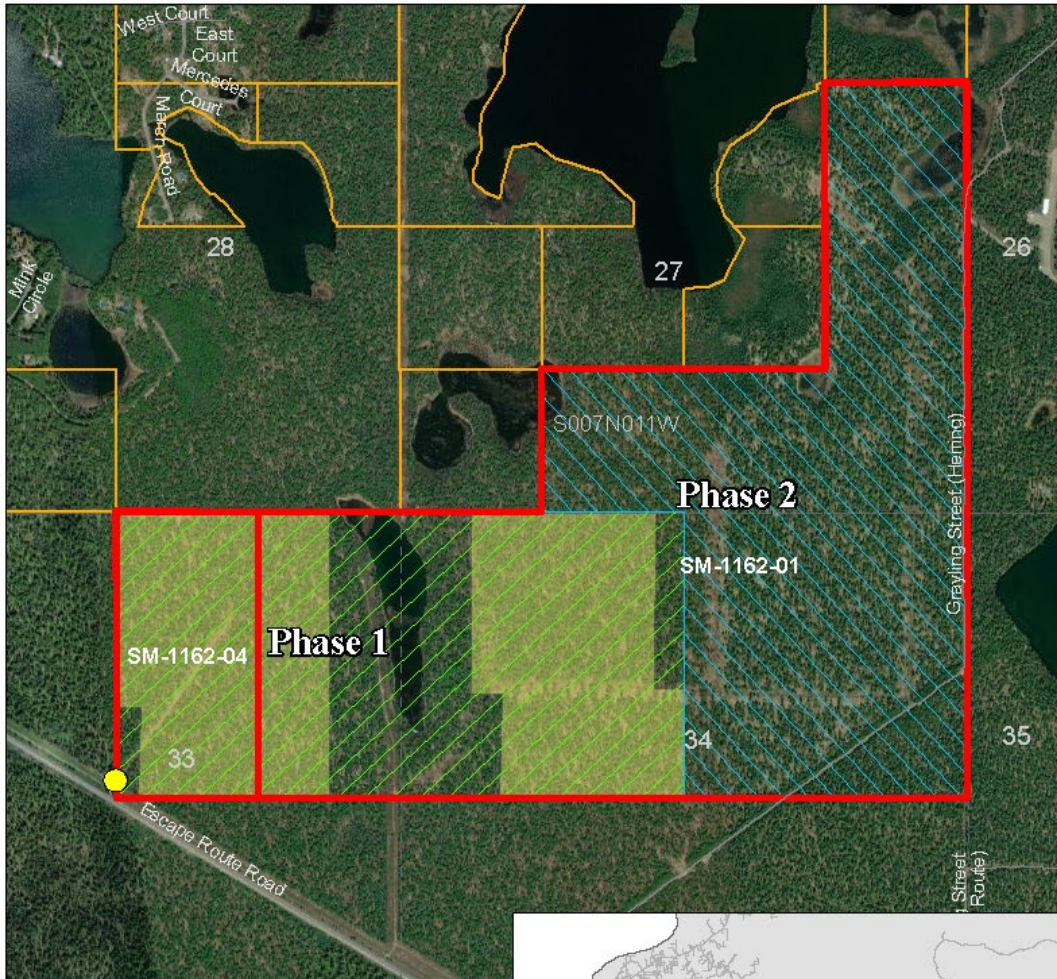
Trust Land Office
2600 Cordova Street, Suite 201
Anchorage, AK 99503

CERTIFIED COPY:

Company
Address
City, State Zip
Attn: Name, Title

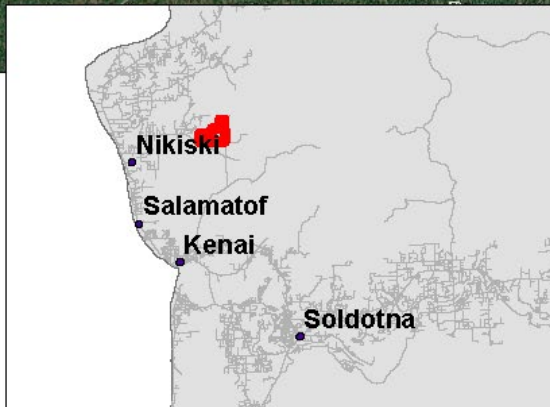
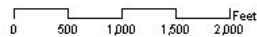
Official State Business – NO CHARGE

SCHEDULE 1
Map of Property



MHT 9201068

- Grid Interconnection
- Phase 1
- Phase 2
- Phase 1 Solar Array
- MHT 9201068
- Mental Health Parcels



SCHEDULE 2
Insurance

Lessee shall have in place, at its sole expense, at all times during the term of the Lease the following policies of insurance:

1. Workers' Compensation Insurance: Lessee shall provide and maintain, for all employees of Lessee engaged in work under this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of Alaska. Lessee shall be responsible to ensure that any contractor or subcontractor who works on this project shall provide and maintain adequate Worker's Compensation insurance, and Lessee agrees to defend and indemnify the Trust Authority and Trust Land Office from and against all claims, causes of action, or liabilities that may arise out of Lessee's failure to so ensure. This coverage shall include statutory coverage for states in which employees are engaging in work and employer's liability protection. Where applicable, coverage for all federal acts (e.g., U.S.L. & H., Jones and Harbor Acts) shall also be included.
2. Comprehensive (Commercial) General Liability Insurance: With coverage limits not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence and not less than Two Million Dollars (\$2,000,000.00) annual aggregate where generally applicable including premises-operations, independent contractors, products/completed operations, broad form property damage, blanket contractual, and personal injury endorsements.
3. Comprehensive Automobile and Aircraft Liability Insurance: Covering all owned, hired, and non-owned vehicles and aircraft with statutory coverage limits not less than \$50,000.00 per person and \$100,000.00 per accident bodily injury and not less than \$25,000.00 property damage per accident.
4. The TLO shall have the right, at its option, to pay any delinquent premium upon on any of Lessee's insurance policies if found necessary to prevent a cancellation, non-renewal or material alteration thereof; and Lessee shall within five (5) days, reimburse TLO therefor. TLO reserves the right to increase the required insurance coverage limits from time to time to reflect then current industry standards or to accommodate changed conditions or perceived risks.

SCHEDULE 3
Plan of Operations

To be submitted and approved by TLO in accordance with this Agreement. In the event of a Public Record's request, this plan is to be considered Confidential and subject to redaction, for proprietary information, by the Lessee prior to being released in addition to any Local, State, & Federal laws regarding Critical Energy/Electric Infrastructure.

SCHEDULE 4
Performance Deposit

Prior to commencing operations, Lessee shall deposit with the TLO an interim Performance Deposit in the form of cash, certified check, irrevocable letter of credit, surety bond, cashiers check, money order or a time certificate of deposit made payable and assignable to the TLO. Please refer to the provided Assignment of Negotiable Interest form.

To adequately protect Trust land, TLO will require an interim Performance Deposit in the amount of \$10,000.00 during Phase I(a-d), as defined in Schedule 5 of the agreement.

Lessee shall file the Decommissioning Bond or Surety (in the initial amount described below) with TLO prior to beginning construction of the Solar Power Facilities. The amount of the Decommissioning Bond or Surety shall be based upon the findings of an independent engineer engaged in the business of decommissioning solar power facilities (the “**Independent Engineer**”), such Independent Engineer to be selected by the Lessee with the reasonable Approval of the TLO. The Independent Engineer shall consider, among other things, the cost to remove the Improvements, the cost to perform reclamation and restoration activities, and the disposal costs and scrap or reuse value of the Improvements (the “**IE Determined Decommissioning Costs**”). TLO shall have the right to review the findings of the Independent Engineer to confirm the calculation of the amount of the IE Determined Decommissioning Costs. The Lessee’s Decommissioning Bond or Surety shall remain in force until the completion of the Decommissioning Phase and all aspects of the Decommissioning Plan. Upon written request, TLO may request Lessee provide TLO with information and documentation to confirm the existence and maintenance of such Decommissioning Bond or Surety in favor of TLO. TLO shall not release the Decommissioning Bond or Surety until TLO has approved completion of all elements of the Decommissioning Plan. The Lessee shall be required to obtain the Decommissioning Bond or Surety in the amount of twenty (20) percent of the IE Determined Decommissioning Costs prior to performing any surface disturbance or construction. Lessee shall increase the amount of the Decommissioning Bond or Surety every five (5) years in the amount of twenty (20) percent of the IE Determined Decommissioning Costs as set forth below:

Years One through Five. Lessee shall obtain and maintain a Decommissioning Bond or Surety in the amount of twenty percent (20.0%) of the IE Determined Decommissioning Costs, as determined by the Independent Engineer.

Years Five through Ten. Lessee shall increase and maintain the Decommissioning Bond or Surety by an additional twenty percent (20.0%) of the IE Determined Decommissioning Costs, so that the Decommissioning Bond or Surety shall equal forty percent (40.0%) of the IE Determined Decommissioning Costs, as determined by the Independent Engineer.

Years Ten through Fifteen. Lessee shall increase and maintain the Decommissioning Bond or Surety by an additional twenty percent (20.0%) of the IE Determined Decommissioning Costs so that the Decommissioning Bond or Surety shall equal sixty percent (60.0%) of the IE Determined Decommissioning Costs, as determined by the Independent Engineer.

Years Fifteen through Twenty. Lessee shall increase and maintain the Decommissioning Bond or Surety by an additional twenty percent (20.0%) of the IE Determined Decommissioning Costs so that the Decommissioning Bond or Surety shall equal eighty percent (80.0%) of the IE Determined Decommissioning Costs, as determined by the Independent Engineer.

Years Twenty through End of Term. Lessee shall increase and maintain the Decommissioning Bond or Surety by an additional twenty percent (20.0%) of the IE Determined Decommissioning Costs so that the Decommissioning Bond or Surety shall equal one hundred percent (100.0%) of the IE Determined Decommissioning Costs, as determined by the Independent Engineer, and shall maintain said Decommissioning Bond or Surety until the Lease term has expired.

Lessee shall submit a redetermination of the IE Determined Decommissioning Cost by the Independent Engineer, and upon such re-determination by the Independent Engineer, the amount of the Decommissioning Bond or Surety will be adjusted accordingly (and if within the first twenty (20) years, in accordance with the applicable percentages set forth above).

SCHEDULE 5
Phases of Agreement

This Agreement is intended to authorize the entirety of the Lessee's requested use of Trust land and in so will consist of "Phases". Each Phase is intended on having a specific term, fee structure, and authorized use. The purpose of this schedule is to define each phase and to outline any additional terms and conditions otherwise not stated throughout this agreement relevant to the applicable phase of the agreement.

Phase I – Initial Phase

The initial phase, referred to as Phase I throughout this Agreement, is for both the initial due diligence and construction of the Project. During Phase I, Lessee may use and occupy the Property to determine the feasibility of Conversion and other power generation on the Property by:

- a. Undertaking geotechnical reviews, environmental, biological, cultural assessments, surveying, title examination, site engineering, soil sampling and other activities for determining the suitability of the Property for a solar energy generation project and in further evaluating the site to ensure it is viable for moving into construction and other activity necessary for the development of the required Phase II Plan of Operations.
- b. Obtaining all required Government Approvals for the present and any subsequent phases of the Project, in addition to
- c. Working with and seeking access and other types of agreements with third parties for the development and construction of the project facilities for those portions that are not on Trust Property.
- d. Completing project financing, financial due diligence and construction agreements, and any other such contracts required for the project to proceed with construction and securing a Power Purchase Agreement approved by the Regulatory Commission of Alaska (RCA).
- e. The installation of all energy producing facilities, including access roads, and any other additionally identified infrastructure as required by the Studies of the project throughout the Initial Phase. This section can only proceed after an amended Plan of Operations for the Initial Phase is submitted and approved by TLO as the details needed for Schedule 5, Phase I(d) will not be known until the completion of Phase I(a-d).

Phase II – Operation Phase

The operation phase, referred to as Phase II throughout this Agreement, is intended to authorize the Project during its post-construction, producing portion of the Project. During Phase II, Lessee

may use and occupy the Property for the continued use, maintenance, additional construction, power production, in accordance with the Lessee's submitted and approved Phase II Plan of Operations. Lessee may also maintain, replace, relocate, or remove the Solar Power Facilities and may Repower pursuant to the terms of this Agreement.

Phase III – Decommission Phase

During the Decommissioning Phase, Lessee will remove all above-ground infrastructure from the Land to a depth of 36 inches below grade, exclusive of any continuing right established pursuant to this Lease to survive the Term and restore the soil surface and vegetation thereon to a condition reasonably similar to its original condition. If Lessee fails to remove such improvements deemed acceptable by TLO as of the date this Lease expires or otherwise terminates, TLO may sue for specific performance, and/or call upon Reclamation Bond or Surety to complete decommissioning.

SCHEDULE 6
Compensation

Lessee shall annually pay in accordance with the outlined rent schedule as defined in Section 6 on or before the Day of Month of each year. Payments are due without the notification from the TLO and are due in advance of the forthcoming year. This Agreement has multiple phases that each have their own respective compensations rates and amounts:

REDACTED FOR CONFIDENTIALITY