

LEASE
FOR
SOLAR ROOFTOP PHOTOVOLTAIC SYSTEM

**Solar Photovoltaic Rooftop System Installation and Sale of Generated Electricity
Contract No. 01FY18**

This Lease, dated as of the date of signature by the Lessor appearing below (the “**Effective Date**”), is made by and between the Arlington County School Board, operating as Arlington Public Schools (“**Lessor**”), and Sun Tribe Solar, LLC, 455 2ND Street SE, Suite 400, Charlottesville, VA 22902 (“**Lessee**”) (Lessor and Lessee being sometimes referred to herein as a “**Party**” or collectively as the “**Parties**”).

WITNESSETH

WHEREAS, Lessor is the owner of that certain Facility located in Arlington County, Virginia, commonly known as Kenmore Middle School, located at 200 S. Carlin Springs Road, Arlington, Virginia 22204 (the “**Facility**”);

WHEREAS, Lessee has agreed pursuant to a Comprehensive Agreement between the Parties dated December 6, 2018, (“**Comprehensive Agreement**”) to design, construct, install, operate and maintain a 432.9 kW (AC) Solar Photovoltaic Rooftop System (the “**SPRS**”) on the roof of the Facility to provide electric power for the Facility; and

WHEREAS, in connection with the foregoing, it is necessary that Lessor lease to Lessee a portion of the Facility in order that Lessee may perform under the Comprehensive Agreement.

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

1. Comprehensive Agreement Incorporated. The Comprehensive Agreement is incorporated herein to establish the rights and obligations of the Parties not addressed herein. In the event of any inconsistency between the terms of the Comprehensive Agreement and the terms of this Lease, the Comprehensive Agreement shall prevail.

2. Leased Premises; Additional Property Rights.

2.1. Leased Premises. Lessor hereby leases to Lessee, in accordance with the terms and conditions hereinafter set forth, up to a maximum of approximately thirty-nine thousand, two hundred and seventy-five (39,275) contiguous square feet of the roof of the Facility, generally as shown on **Exhibit A** attached hereto and incorporated herein, where the SPRS will be constructed, installed, operated and maintained (the “**Leased Premises**”).

2.2. Lessee’s Ancillary Rights. In connection with Lessor’s leasing the Leased Premises to Lessee, Lessor hereby grants to Lessee, for a period co-terminus with this Lease, the non-exclusive right to use the access drives and areas of the Facility parking lot designated on **Exhibit B** (“**Facility Exterior Access**”), and the access routes in the interior of the Facility designated on **Exhibit C** (“**Facility Interior Access**”), both Exhibits being attached

hereto and incorporated herein. Lessor may change the Facility Exterior Access and the Facility Interior Access at any time with reasonable Notice to Lessee, so long as comparable access is provided. The Facility Interior Access and Facility Exterior Access are provided for the purpose of accessing the Leased Premises for construction, installation, operation and maintenance of the SPRS and to locate any auxiliary equipment necessary to construct, install, operate or maintain the SPRS on the Leased Premises. Lessee shall not install any improvements that would prevent or impair access to or prevent or impair use of any portion of the Facility other than the Leased Premises. Lessor hereby further grants to Lessee, for a period co-terminus with this Lease, the non-exclusive right to enter the Facility for the purposes of utilizing the Facility's mechanical and electrical systems in connection with the construction, installation, operation and maintenance of the SPRS; *provided, however*, Lessee shall exercise such right in a manner as to not unreasonably interfere with the use of the Facility and the Facility's mechanical and electrical systems by Lessor, or otherwise in violation of the Comprehensive Agreement.

2.3. Installation of Signage Identifying SPRS. In order to attempt to minimize any interference or disruption in the operation of the SPRS caused by third parties that may access the roof from time to time, Lessee shall have the right, at its sole cost and expense, to install signage on the roof of the Facility in the vicinity of the Leased Premises and at the point of access to the roof of the Facility identifying the existence of the SPRS on the roof of the Facility and instructing parties accessing the roof to use caution so as not to damage the SPRS. The location, design and content of such signage shall be subject to the prior approval of Lessor, which approval shall not be unreasonably withheld, conditioned or delayed. Such signage shall be removed by Lessee upon the final removal of the SPRS from the Leased Premises in accordance with the terms of the Comprehensive Agreement.

3. Term. The term of this Lease shall commence on the Effective Date and shall continue for twenty-five (25) years. This Lease if not terminated sooner shall terminate at midnight Local Prevailing Time on the date which is the twenty-fifth (25th) anniversary of the Effective Date. The Term may be extended or terminated pursuant to the provisions of the Comprehensive Agreement.

4. Annual Rent. Commencing on the Effective Date and continuing thereafter for the remainder of the Term, Lessee shall pay to Lessor annual rent for the Leased Premises of One Dollar (\$1.00). Lessor hereby is authorized by Lessee to deduct the Annual Rent from any payment due by Lessor to Lessee at any time on or after the anniversary of the Effective Date.

5. Lessor's Purchase of Power from Lessee:

5.1. All power generated by the SPRS shall be provided to Lessor for use in the Facility.

5.2. Lessor shall pay to Lessee, on the payment schedule set forth in the Comprehensive Agreement, for the purchase of power generated by the SPRS at the rate of \$0.0796 per kilowatt (kW).

6. SPRS Installation. Installation of the SPRS shall be performed by the Lessee in accordance with the terms of the Comprehensive Agreement.

7. SPRS Operation, Maintenance, Use and Removal.

7.1. Operation, maintenance, use and removal of the SPRS shall be pursuant to the provisions of the Comprehensive Agreement.

7.2. Ownership of SPRS. Except as otherwise provided in the Comprehensive Agreement, Lessor acknowledges and agrees that (i) notwithstanding that the SPRS may be a fixture under applicable law, as between the Parties the SPRS shall be deemed to be personal property, (ii) Lessee is the exclusive owner and operator of the SPRS, and (iii) the SPRS may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by Lessor with the fee interest or leasehold rights to the Property.

7.3. Use of Leased Premises. Lessee shall use the Leased Premises solely for the construction, installation, operation and maintenance of the SPRS and for no other uses.

7.4. Quiet Enjoyment. So long as there does not exist a Lessee Default as defined in the Comprehensive Agreement, Lessor agrees that, subject to the terms and conditions of this Lease and the Comprehensive Agreement, Lessee shall have the right to quietly use and enjoy the Leased Premises for the Term, without hindrance or molestation by Lessor or those claiming by, through or under Lessor.

8. Non-Interference. Lessor covenants and agrees that, during the Term, Lessor shall not place, nor allow the placement by others of, any additional equipment or structures on the roof of the Facility which either interfere with the construction, installation, operation or maintenance of the SPRS or materially and adversely affect the exposure of the SPRS to sunlight without the prior written consent of Lessee, which consent shall not be unreasonably withheld. Lessee shall be under no obligation to consent to any placement of additional equipment or structures on the roof of the Facility which materially and adversely affect the exposure of the SPRS to sunlight.

9. Lessor's Maintenance Obligations. Except as otherwise provided in the Comprehensive Agreement, during the Term Lessor shall, at its sole cost and expense, maintain the Facility, including, without limitation, the roof and all mechanical and electrical systems serving the Facility, excluding the SPRS, in good operating condition and repair.

10. Insurance. Lessee shall provide all insurance as required by the Comprehensive Agreement.

11. Taxes.

11.1. Taxes Paid by Lessee. Lessee shall pay, on or before the due date thereof, all personal property taxes, business and license taxes and fees, service payments in lieu of such taxes or fees, annual and periodic license and use fees, excises, assessments, levies, fees and charges of any kind which are assessed, levied, charged, confirmed, or imposed by any governmental authority due to Lessee's occupancy and use of the Leased Premises (or any portion or component thereof) or the ownership and use of the SPRS thereon.

11.2. Taxes Paid by Lessor. Lessor shall pay, on or before the due date thereof, all real estate taxes and assessments, payments in lieu of such taxes and assessments, and fees and charges of any kind which are assessed, levied, charged, confirmed, or imposed by any governmental authority on the Facility.

12. Casualty and Condemnation.

12.1. Restoration by Lessor. Notwithstanding anything to the contrary contained herein, in the event of a casualty to all or any part of the Facility, Lessor shall have no duty or liability to Lessee to restore the Facility. If Lessor elects not to restore the Property, it shall give Lessee written notice of such election within one hundred eighty (180) days after the occurrence of such casualty and, upon its receipt of such notice, Lessee may, at its option, remove the remaining elements of the SPRS at its cost. In such event, Lessor shall have no liability to Lessee for damage to or loss of the SPRS, in whole or in part, and Lessor's sole liability to Lessee shall be payment for any power provided prior to the casualty at the established rates for which Lessor has not already paid.

12.2. Condemnation Awards. In the event of any condemnation, the impact on Lessee's interests shall be deemed a casualty and subject to the foregoing terms. Lessor shall be entitled to receive the entire award paid by the condemning authority for the Property, without deduction therefrom for any estate vested in Lessee by this Lease, and Lessee shall receive no part of such award. Notwithstanding the foregoing, Lessee may make a separate claim against the condemning authority, to the extent permitted by law, for Lessee's moving expenses, personal property and lost profits.

13. Miscellaneous.

(a) **Governing Law.** This Lease will be governed by the Laws of the Commonwealth of Virginia, without giving effect to principles of conflicts of laws.

(b) **Due Authorization.** Each Party represents and warrants to the other Party that it (i) has been duly authorized to enter into this Lease by all necessary action, and (ii) the execution and delivery of this Lease and the performance by such Party of its obligations hereunder will not result in a default under any agreement to which it is a party.

(c) **Entire Agreement; Amendments.** This Lease, the Comprehensive Agreement, and all exhibits, any written schedules, appendices, or Change Orders, constitute the entire agreement between the Parties, and shall supersede any prior oral or written agreements between the Parties relating to the subject matter hereof other than the Comprehensive Agreement and all terms and provisions therein.

(d) **Non-Waiver.** No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing and signed by the waiving Party. No consent by either Party to, or waiver of a breach by either Party, whether express or implied, shall be construed to operate as or constitute a consent to or waiver of any other or subsequent or succeeding breach by either Party.

(e) **Remedies Cumulative.** No remedy herein conferred upon or reserved to Lessee or Lessor shall exclude any other remedy herein or by law provided, but each shall

be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(f) **Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.

(g) **Binding Effect.** This Lease and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the Parties hereto, together with their respective successors and permitted assigns.

(h) **Counterparts.** This Lease may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument.

(i) **No Third-Party Beneficiaries.** Nothing in this Lease will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind other than as provided expressly in the Lease.

(j) **Time is of the Essence.** Time is of the essence of this Lease

(k) **Memorandum.** Lessor and Lessee agree that at the request of either, each will execute a short form memorandum of this Lease in form satisfactory for recording in the land registry or title records of Arlington County, Virginia. The Party seeking to record such Memorandum shall be responsible for all recording fees, taxes and other charges associated therewith.

[signature page to follow]

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

LESSEE:

SUN TRIBE SOLAR, LLC

By: Taylor Brown

Name: Taylor Brown

Title: CTO

Date of Signature: December 6, 2018

LESSOR:

ARLINGTON COUNTY SCHOOL BOARD,
operating as Arlington Public Schools
a Virginia body politic

By: Reid Goldstein

Name: Reid Goldstein

Chair, Arlington County School Board

Date of Signature: December 6, 2018

EXHIBIT A

**LEGAL DESCRIPTION OF PROPERTY AND ROOFTOP SURVEY DEPICTING
LEASED PREMISES**

To be Provided by the Owner's Representative

EXHIBIT B

**SITE PLAN OF PROPERTY DEPICTING (A) THE FACILITY AND THE
LOCATION FOR CONDUITS ON THE FACILITY AND (B) THE LOCATIONS FOR
INVERTER BOX AND CONSTRUCTION LAYDOWN AREAS**

To be Provided by the Owner's Representative

EXHIBIT C

COPY OF FACILITY FLOOR PLAN SHOWING INTERIOR ACCESS ROUTES

To be Provided by the Owner's Representative