

**Execution of Document**

South Dakota law requires that this document may not be executed by the parties until at least 10 business days after it has been delivered to the property owner. The property owner acknowledges that the document was delivered, and if applicable executed, on the dates set forth below.

	Date / Days	Owner Initials
Date document delivered to Owner	<u>6/25</u> , 20 <u>21</u>	CH
Date document executed by Owner	<u>7/12</u> , 20 <u>21</u>	CH
Number of business days between delivery and execution (excluding holidays and weekends)	<u>17</u> days	CH

## SOLAR EASEMENT AGREEMENT

### Deuel Harvest Solar

Deuel County, State of South Dakota

THIS SOLAR EASEMENT AGREEMENT (this “**Agreement**”) is made, dated and effective as of July 12, 2021 (the “**Effective Date**”), by and between **U.S. Farmland Fund, L.P.** (together with their successors, assigns and heirs, comprising “**Owner**”), and **INVENERGY SOLAR PROJECT DEVELOPMENT LLC** a Delaware limited liability company (together with its transferees, successors and assigns, “**Grantee**”), and in connection herewith, Owner and Grantee agree, covenant and contract as set forth in this Agreement. Owner and Grantee are sometimes referred to in this Agreement as a “**Party**” or collectively as the “**Parties**”.

1. Solar Easement. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Owner and Grantee, upon the terms and conditions set forth in this Agreement, Owner hereby grants and conveys to Grantee an exclusive easement to convert, maintain and capture the flux of solar energy over across and through the surface estate of that certain real property, including, but not limited to, the air space thereon, located in Deuel County, (the “**County**”), State of South Dakota consisting of one hundred and sixty ( 160 ) acres, as more particularly described in Exhibit A attached hereto and incorporated herein (the “**Property**”) for the purposes set forth below. For purposes of calculating acreage-based payment due under this Agreement, “**Net Acre**” or “**Net Acreage**” shall be used, which means the gross area of the portion of the Property being referred to, including all internal easements and rights-of-way but excluding any and all perimeter easements and dedicated rights-of-way. Net Acreage shall be determined by a survey prepared by a surveyor licensed in the state in which the Property exists.

1.1 Purposes of the Easement. This Agreement is solely and exclusively for solar energy purposes (as such term is broadly defined, including ancillary rights related thereto and necessary for the development and operation of Solar Facilities (as defined below)), and not for any other purpose, and Grantee shall have the exclusive right to develop and use the Property for solar energy purposes and to derive all profits therefrom, including but not limited to the following activities (collectively, “**Site Activities**”):

(a) Converting solar energy into electrical energy, and collecting and transmitting the electrical energy so converted;

(b) Determining the feasibility of solar energy conversion and other power generation on the Property or on adjacent lands, including studies of solar energy emitted upon, over and across the Property and other meteorological data, environmental studies and extracting soil samples;

(c) Constructing, laying down, installing, using, replacing, relocating, reconstructing and removing from time to time, and monitoring, maintaining, repairing and operating the following only for the benefit of the Project or Projects (as defined below) (i) solar energy collection and electrical generating equipment of any kind (including, without limitation, any such equipment utilizing photovoltaic (collectively, “**Solar Generating Equipment**”); (ii) overhead and underground electrical distribution, collection, transmission and communications lines or cables, electric combiners, inverters, transformers and substations, energy storage facilities, and telecommunications equipment; (iii) roads and crane pads; (iv) meteorological measurement equipment; (v) control buildings, operations and maintenance facilities and buildings; and (vi) installing, operating, maintaining, repairing and replacing any other improvements, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing (all of the above, including the Solar Generating Equipment, collectively “**Solar Facilities**”). The term “**Project**”, for the purposes of this Agreement, means an integrated solar energy generation system, consisting of Solar Facilities, that is constructed and operated on the Property, and/or adjacent lands, by Grantee, or a third

party authorized by Grantee. Grantee may determine whether any particular group of Solar Facilities constitutes a single Project or multiple Projects for purposes of this Agreement, and in the case of multiple Projects, which portion of the Property shall be included within each Project.

1.2 Other Uses. During the Term when Grantee construction is about to occur, Owner agrees to provide Grantee with current information concerning the status and location of all other land uses occurring on the Property (including, without limitation, agricultural use, industrial use and oil and gas exploration and production activities). Any new leases or renewals and or extensions of existing leases, options to lease, seismic operations, or any other agreement made by Owner with a third party regarding the Property (including any of the foregoing related to water, oil, gas or other minerals) shall contain language that states that such third party shall not disturb, interfere with, preclude, or destroy Grantee's rights hereunder.

2. Grant of Additional Easements.

2.1 Owner hereby grants, conveys and warrants to Grantee the following additional easements upon, over, across and under the Property, and is owned or controlled by Owner, as of the Effective Date:

(a) Non-Obstruct. An exclusive easement to capture, use and convert the unobstructed flux of solar energy over and across the Property from all angles and from sunrise to sunset at the Property during each day of the Term. In addition, Owner agrees to enter into that certain Grant of Easement for Collection of Solar Energy attached hereto as Exhibit E which shall encumber the property owned by Owner adjacent to the Property that is not subject to this Agreement [OPTIONAL WHERE APPLICABLE];

(b) Interference. An exclusive easement for electromagnetic, audio, visual, view, light, noise, vibration, electrical, radio interference, or other effects attributable to the Solar Generating Equipment, the Project or any Site Activities;

(c) Access Easement. A non-exclusive easement for ingress to and egress from the Project or Projects (whether located on the Property, on adjacent property or elsewhere) over and across the Property by means of roads and lanes thereon if existing or later constructed by Owner, or otherwise by such route or routes as Grantee may construct from time to time;

(d) Other Easements. All other easements reasonably necessary to accomplish the activities permitted by this Agreement, including without limitation, generation-tie and transmission line easements, utility easements (including underground and above-ground gas, electricity, water, and telephone), drainage easements, and geotechnical and environmental testing and sampling easements.

3. Term. The term of this Agreement shall commence on the Effective Date and continue for the following described periods (collectively, the "**Term**"):

3.1 Development Term. This Agreement shall be for an initial term (the "**Development Term**") commencing on the Effective Date and continuing until the earlier to occur of: (a) the seventh (7th) anniversary of the Effective Date or (b) the commencement of construction, however, the Development Term shall not expire due to the Limited Construction Activities.

(a) Commencement of Construction. The terms "**commencing construction**" and "**commencement of construction**" as used in this Agreement shall mean that date on which Grantee begins grading of the Property for the installation of the Solar Facilities, provided, however, upon prior consultation with Owner in which Grantee provides (i) reasonable detail sufficient to establish the necessity for limited construction activities to begin on the Property to satisfy the requirements of an investment tax credit as that term is defined by the regulations of the Internal Revenue Service, and (ii) a written proposal

detailing the nature and scope of the specific construction activities Grantee intends to undertake (“**Limited Construction Activities**”), Grantee may perform such Limited Construction Activities on the Property without triggering the commencement of construction as defined in this Agreement.

(b) Limited Construction Activities. During any period in which Grantee is performing Limited Construction Activities, Grantee shall be required to (a) make all ongoing Development Term payments due under this Agreement plus the additional payment described in Exhibit B herein; and (b) make all applicable surface damage and Crop Compensation payments arising from the Limited Construction Activities. If, at any time during Grantee’s Limited Construction Activities on the Property, Grantee determines that its activities materially exceed the written scope of work originally provided to Owner, Grantee shall determine and notify Owner of such date when the Construction Term begins.

3.2 Construction Term. Upon the expiration of the Development Term, the term of this Agreement shall automatically extend and continue (“**Construction Term**”) until the earlier to occur of: (a) the date on which Grantee begins production of electrical energy generated by substantially all of the Solar Generating Equipment to be included in the Project or (b) the tenth (10th) anniversary of the Effective Date. Upon the occurrence of either subsection (a) or (b), that date, as declared by Grantee, is hereinafter referred to as the “**Operations Date**.”

3.3 First Extended Term. Upon the expiration of the Construction Term, the term of this Agreement shall automatically extend for an additional twenty-five (25) year term (the “**First Extended Term**”).

3.4 Second Extended Term. Grantee shall have the preferential right upon written notice to Owner before expiration of the First Extended Term to extend the Term of the Agreement for an additional period of time that shall begin on the twenty-fifth (25th) anniversary of the Operations Date and end on the later of which to occur of: (i) the forty-third (43rd) anniversary of the Operations Date, or (ii) the date immediately preceding the fiftieth (50th) anniversary of the Effective Date (“**Extended Term**”). Owner grants Grantee permission to record in the Deuel County, South Dakota records a notice of such extension.

4. Payments to Owner. In consideration of the rights granted hereunder, Grantee will pay Owner the amounts set forth in Exhibit B attached hereto. Exhibit B shall not be recorded without the specific prior written consent of Grantee.

5. Ownership of Solar Facilities. Owner shall have no ownership, lien, security or other interest in any Solar Facilities installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Solar Facilities at any time. Except for those payments described in this Agreement, including Exhibit B, Owner shall not be entitled to any other payments or benefits accrued by or from the Project, including, but not limited to, renewable energy credits, environmental credits (including, without limitation, soil carbon sequestration and phosphorous credits) or tax credits.

6. Taxes. Owner shall pay all taxes, assessments, or other governmental charges, general and specific, that shall or may during the Term be imposed on, or arise in connection with the Property itself; provided, however, during the Term Grantee shall be liable for any incremental increase in such taxes, assessments, or other governmental charges directly resulting from the presence of the Solar Facilities installed upon the Property (“**Grantee Taxes**”). To the extent the applicable taxing authority provides a separate tax bill for the Grantee Taxes to Grantee, Grantee shall pay such Grantee Taxes directly to the applicable taxing authorities prior to the date such Grantee Taxes become delinquent. If a separate tax bill for the Grantee Taxes is not provided to Grantee, Grantee shall pay the Grantee Taxes within thirty (30) days following receipt of written demand from Owner of the amount of the Grantee Taxes with a copy of the applicable tax bill. Both Parties shall pay their respective tax bills when due and if either Party fails to

make such payments when due, then the other Party may, but shall not be obligated to, pay the taxing authorities the entire amount due on the tax bill, including any interest and/or penalties and obtain reimbursement for such amount paid on behalf of such Party plus interest (computed from the date of full payment) at a rate equal to the sum of: (i) two percent (2%) per annum; plus, (ii) the prime lending rate as from time to time may be published by The Wall Street Journal under the "Money Rates" section; provided, that in no event shall such total interest exceed the maximum rate permitted by applicable law. If Grantee pays taxes, assessments, and/or real property taxes on behalf of Owner that are Owner's obligation hereunder, Grantee may offset the amount of such payments against amounts due Owner under this Agreement.

7. Indemnity/Liability.

7.1 Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and such other Party's Related Persons (as defined below) (each, an "**Indemnified Party**") from and against any and all third party (excluding Related Persons) claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including reasonable attorneys', investigators' and consulting fees, court costs and litigation expenses (collectively, "**Claims**") suffered or incurred by such Indemnified Party, arising from the negligence or intentional misconduct of the Indemnifying Party. Notwithstanding the foregoing to the contrary, Grantee may elect, upon written notice, to control any or all aspects of the defense of any legal action covered by the prior sentence.

7.2 In no event shall either Party be liable to the other Party to the extent any Claim is caused by, arising from or contributed by the negligence or intentional misconduct of such other Party or any Related Person thereof.

7.3 Except for payments expressly required herein (such as crop damage compensation), in no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability or otherwise, shall either Party be liable to the other Party for loss of profit or revenues, loss of business opportunities or for any other special, consequential, incidental, indirect or exemplary damages.

7.4 In no event shall Grantee or its Related Persons be liable to Owner for property damage or personal injuries to Owner or its Related Persons attributable to risks of known and unknown dangers associated with normal day-to-day operation of electrical generating facilities, such as noise, electromagnetic fields, and glare, or from any runoff or altered drainage patterns resulting from Grantee's grading of the Property.

7.5 In no event shall either Party or its Related Persons be liable to the Other Party for expenses incurred in such other Party's lawful enforcement of its rights under this Agreement for a default during any applicable cure period.

7.6 As used herein the term "**Related Person**" shall mean:

(a) With respect to Owner, any principals, employees, servants, guests or invitees of Owner or those third persons over whom Owner exercises actual control; or

(b) With respect to Grantee, any affiliates, contractors, lessees, and sublessees of Grantee, and each of their respective, principals, officers, employees, servants, agents, representatives, subcontractors, licensees, invitees, and/or guests.

7.7 This Section 7 shall survive the expiration or earlier termination of this Agreement.

8. Grantee's Representations, Warranties, and Covenants. Grantee hereby represents, warrants, and covenants to Owner that:

8.1 Grantee's Authority. Grantee has the unrestricted right and authority to execute this Agreement. Each person signing this Agreement on behalf of Grantee is authorized to do so. Upon execution by all Parties hereto, this Agreement shall constitute a valid and binding agreement enforceable against Grantee in accordance with its terms.

8.2 Minimal Impacts. Grantee agrees to conduct its Site Activities and to locate and operate its Solar Facilities in such a way as to reasonably minimize impacts to the Property and to Owner's activities on the Property, to the extent practical, without negatively impacting the Solar Facilities. If Owner's Property is fenced, all access roads constructed by Grantee on the Property shall be gated by Grantee at Grantee's expense, and Owner shall be furnished with keys or other ability to open and close such gates.

8.3 Insurance. Grantee shall, at its expense, be responsible for assuring that insurance coverages, as would be customary and reasonable for similarly situated companies performing the work carried out by Grantee at such time, are maintained, including, without limitation, adequate coverage to cover any personal injuries or accidents that could reasonably be expected as a direct result of the Site Activities conducted by Grantee or its Related Persons on the Property.

8.4 Requirements of Governmental Agencies. Grantee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders, and regulations of any governmental agency applicable to the Solar Facilities. Grantee shall have the right, in its sole discretion, to contest by appropriate legal or administrative proceedings, the validity or applicability to Grantee, the Property or Solar Facilities of any law, ordinance, statute, order, regulation, property assessment, or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Any such contest or proceeding shall be controlled and directed by Grantee.

8.5 Construction Liens. Grantee shall keep the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies, or equipment furnished to, the Property in connection with Grantee's use of the Property pursuant to this Agreement; provided, however, that if Grantee wishes to contest any such lien, Grantee shall, at Grantee's sole discretion and within sixty (60) days after it receives written notice of the filing of such lien, either (i) provide a bond to Owner for the amount of such lien, or (ii) provide Owner with title insurance insuring Owner's interest in the Property against such lien claim.

8.6 Hazardous Materials. Neither Grantee nor its Related Persons shall violate any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of asbestos-containing materials, petroleum, explosives or any other substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations, on or under the Property (each, a "**Hazardous Material**"). Grantee shall promptly notify Owner if any violation occurs.

8.7 Special Conditions. Grantee agrees to abide by any special conditions enumerated in Exhibit C attached hereto.

9. Owner's Representations, Warranties, and Covenants. Owner hereby represents, warrants, and covenants as follow:

9.1 Owner's Authority. Owner is the sole fee simple owner of the Property including the subsurface estate thereof, and has the unrestricted right and authority to execute this Agreement and to grant to Grantee the rights granted hereunder. Each person signing this Agreement on behalf of Owner is authorized to do so. Upon execution by all Parties hereto, this Agreement shall constitute a valid and binding agreement enforceable against Owner in accordance with its terms. Each person/entity comprising Owner, as listed in the preamble to this Agreement, owns the fractional interest in the Property set forth below:

<b>Owner:</b>	<i>U.S. Farmland Fund, L.P.</i>
<b>Fractional Ownership:</b>	<i>100%</i>

9.2 No Interference. Owner's activities and any grant of rights Owner makes to any person or entity, shall not, currently or prospectively, disturb or interfere with: the construction, installation, maintenance, or operation of the Solar Facilities, whether located on the Property or elsewhere; access over the Property to such Solar Facilities; any Site Activities; or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Owner shall not erect any structures, plants or other equipment, or enter into any third party agreements or amend or extend any existing agreements ("Third Party Agreements") or undertake any other activities (an "Owner Action" or collectively the "Owner Actions") that may: (i) interfere with Grantee's right to install Solar Facilities on any portion of the Property, (ii) potentially cast a shadow onto the Solar Facilities, (iii) cause a decrease in the output or efficiency of any Solar Facilities, (iv) interrupt the flux of solar energy upon, across and over any portion of the Property used or to be used by the Solar Facilities, or (v) otherwise interfere with Grantee's operations on the Property (each an "Interference"). Prior to undertaking an Owner Action, that may cause an Interference, Owner shall consult with Grantee to confirm that such Owner Action will not cause any Interference. If Grantee reasonably determines the Owner Action could cause an Interference, then Owner shall not be permitted to undertake such Owner Action. Owner shall not disturb or permit the disturbance of the subsurface such that may impact in any way the structural integrity or the operations and maintenance of the Solar Facilities. Grantee shall have the right to trim existing trees to maintain approximately their same height and width as exists as of the date hereof for the purpose of not interfering with the flux of solar energy from any angle upon, across and over the Property. Owner agrees not to develop, co-develop, acquire or otherwise participate in any solar related project or projects with an aggregate output in excess of 500 kilowatts within any area that is within five (5) miles of the Project.

9.3 Liens and Tenants. Except as may be disclosed in the real property records of the County, or as disclosed by Owner in writing to Grantee on or prior to the Effective Date, Owner represents there are no leases (including oil, gas and/or other mineral interests), easements, licenses, rights of way, mortgages, deeds of trust, liens, security interests, mechanic's liens or any other encumbrances encumbering all or any portion of the Property that could interfere with Grantee's operations on the Property, including mechanic's liens. If such Owner representation and warranty is breached and such breach is not caused by Grantee, then Owner shall fully cooperate and assist Grantee in removing or limiting such interference, including, but not limited to, obtaining a subordination and non-disturbance agreement where Grantee deems it necessary, with terms and conditions reasonably requested by Grantee to protect its rights hereunder, from each party that holds such rights (recorded or unrecorded), and in the case of monetary liens such as mechanic's liens, bonding over any such liens in an amount that may be reasonably requested by Grantee.

9.4 Requirements of Governmental Agencies and Setback Waiver. Owner shall assist and fully cooperate with Grantee, at no out-of-pocket expense to Owner, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews, tax abatements or any other permits and approvals reasonably necessary for the financing, construction, installation, monitoring, repair, replacement relocation, maintenance, operation or removal of Solar Facilities, including, but not limited to, execution of applications and documents reasonably necessary for such approvals and permits, and participating in any appeals or regulatory proceedings respecting the Solar Facilities. To the extent permitted by law, Owner hereby waives enforcement of any applicable setback requirements respecting the Solar Facilities to be placed on or near the Property that are reasonably necessary, in Grantee's sole and absolute discretion, to carry out Grantee's power-generating activities on or near the Property.

9.5 Hazardous Materials. Neither Owner nor its Related Persons shall violate any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any Hazardous Material. Owner shall promptly notify Grantee if any such violation occurs. To the best of Owner's knowledge, (i) no underground tanks are now located or at any time in the past have been located on the Property or any portion thereof, (ii) no Hazardous Material has been generated, manufactured, transported, produced, used, treated, stored, released, disposed of or otherwise deposited in or on or allowed to emanate from the Property or any portion thereof other than as permitted by applicable law and (iii) there are no Hazardous Materials in, on or emanating from the Property or any portion thereof which may support a claim or cause of action under any applicable law. Owner certifies it has never received any notice or other communication from any governmental authority alleging that the Property is or was in violation of any applicable law.

9.6 Litigation. No litigation is pending, and, to the best of Owner's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or which could affect, the Property. If Owner learns that any such litigation, action, claim or proceeding is threatened or has been instituted, Owner shall promptly deliver notice thereof to Grantee and provide Grantee with periodic updates of the status of said litigation, action, claim or proceeding that is ongoing.

9.7 Title Insurance and Financing. Owner agrees that Owner shall execute and deliver to Grantee any documents reasonably required by the title insurance company and/or a financing party within five (5) business days after presentation of said documents by Grantee; provided, however, in no event shall such documents materially increase any obligation or materially decrease any right of Owner hereunder. Owner shall have no obligation to initiate the process to obtain title insurance on behalf of the Grantee.

10. Assignment.

10.1 Collateral Assignments. Grantee shall have the absolute right in its sole and exclusive discretion, without obtaining the consent of Owner, to finance, mortgage, encumber, hypothecate, pledge or transfer to one or more Mortgagees any and all of the rights granted hereunder, including the easements granted in Section 2, and/or any or all rights or interests of Grantee in the Property or in any or all of the Solar Facilities.

10.2 Non-Collateral Assignments. Grantee shall have the right, without the prior consent of Owner, to sell, convey, assign or transfer (including granting co-easements, separate easements, subeasements) any or all of its rights hereunder in and to any or all of the Property provided such transfer is related to a Project. Grantee shall be relieved of all of its obligations arising under this Agreement, as to all or such portion of its interests in the Property transferred, from and after the effective date of such transfer, provided such rights and obligations have been assumed by such transferee.

10.3 Acquisition of Interest. The acquisition of all interests, or any portion of interest, in Grantee by another person shall not require the consent of Owner or constitute a breach of any provision of this Agreement and Owner shall recognize the person as Grantee's proper successor.

11. Default and Remedies.

11.1 If a Party defaults in or otherwise fails to perform an obligation under this Agreement, the non-defaulting Party shall not have the right to exercise any remedies hereunder if the default is cured by the defaulting Party within sixty (60) days of receiving written notice of such default specifying in detail the default and the requested remedy (a "Notice of Default"); provided, that if the nature of the default requires, in the exercise of commercially reasonable diligence, more than sixty (60) days to cure, the non-defaulting Party shall not have the right to exercise any remedies hereunder as long



as the defaulting Party commences performance of the cure within sixty (60) days of receipt of Notice of Default and thereafter completes such cure with commercially reasonable diligence. Further, if the Parties have a good faith dispute as to whether a payment is due hereunder, the alleged defaulting Party may deposit the amount in controversy (not including claimed consequential, special, exemplary or punitive damages) into escrow with any reputable third party escrowee, or may interplead the same, which amount shall remain undistributed and shall not accrue interest penalties, and no default shall be deemed to have occurred, until final decision by a court of competent jurisdiction or upon agreement by the Parties. No such deposit shall constitute a waiver of the defaulting Party's right to institute legal action for recovery of such amounts.

11.2 Remedies. Except as qualified by Section 12 regarding Mortgagee Protections, should a default remain uncured beyond the applicable cure periods, the non-defaulting Party shall have the right to exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative, including the right to enforce this Agreement by injunction, specific performance or other equitable relief. Notwithstanding anything in this Agreement to the contrary or any rights or remedies Owner might have at law or in equity, if any of Grantee's Solar Facilities are then located on the Property and Grantee fails to perform any of its obligations hereunder beyond applicable cure periods, Owner shall be limited to pursuing damages and Owner may not commence any action to terminate or cancel this Agreement.

12. Mortgagee Protection. In the event that any mortgage, deed of trust, financing statement, or other security interest in this Agreement or in any Solar Facilities, or any portion thereof (a "Mortgage"), is entered into by Grantee then any person who is the mortgagee, grantee or beneficiary of a Mortgage (a "Mortgagee") shall, for so long as its Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Section 12. Grantee shall send written notice to Owner of the name and address of any such Mortgagee; provided that failure of Grantee to give notice of any such Mortgagee shall not constitute a default under this Agreement and shall not invalidate such Mortgage.

12.1 Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Mortgagee shall have the absolute right: (i) to assign its security interest; (ii) to enforce its lien and acquire title to the easement estate by any lawful means; (iii) to take possession of and operate the Solar Facilities or any portion thereof, to exercise all of Grantee's rights hereunder, and to perform all obligations to be performed by Grantee hereunder, or to cause a receiver to be appointed to do so; and (iv) to acquire the easement estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the easement estate to a third party. Owner's consent shall not be required for the acquisition of the encumbered easement or subeasement estate by a third party who acquires the same by foreclosure or assignment in lieu of foreclosure.

12.2 Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any default of Grantee, Owner shall give a Notice of Default to each Mortgagee of which it has notice, concurrently with delivery of such notice to Grantee. In the event Owner gives a Notice of Default, the following provisions shall apply:

(a) A "**Monetary Default**" means Grantee's failure to pay when due any monetary obligation of Grantee under this Agreement. Any other default by Grantee is a "**Non-Monetary Default.**"

(b) The Mortgagee shall have the same period after receipt of the Notice of Default to remedy the default, or cause the same to be remedied, as is given to Grantee, plus, in each instance, the following additional time periods: (i) thirty (30) days, for a total of ninety (90) days after receipt of the Notice of Default in the event of any Monetary Default; and (ii) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the Notice of Default in the event of any Non-Monetary Default, provided that such 120-day period shall be extended for the time reasonably required to complete

such cure, including the time required for the Mortgagee to perfect its right to cure such Non-Monetary Default by obtaining possession of Grantee's easement estates in and to the Property (including possession by a receiver) or by instituting foreclosure proceedings, provided the Mortgagee acts with reasonable and continuous diligence. The Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee hereunder for purposes of curing such default. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of the original Grantee hereunder. Owner shall not take any action to terminate this Agreement in law or equity prior to the expiration of the cure periods available to a Mortgagee as set forth above.

(c) During any period of possession of Grantee's easement estates in and to the Property by a Mortgagee (or a receiver requested by such Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a Mortgagee, the Mortgagee shall pay or cause to be paid all monetary charges payable by Grantee hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Grantee's easement estate in and to the Property by the Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment and/or deed in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Mortgagee or party acquiring title to Grantee's easement estate shall, as promptly as reasonably possible, commence the cure of all of Grantee's defaults which are reasonably susceptible of being cured by the Mortgagee or party acquiring title, hereunder and thereafter diligently process such cure to completion, whereupon such defaults shall be deemed cured without incurring any default hereunder.

(d) Any Mortgagee or other party who acquires Grantee's easement interest in and to the Property pursuant to foreclosure or assignment in lieu of foreclosure shall be liable to perform the obligations imposed on Grantee by this Agreement for such interest so long as such Mortgagee or other party has ownership of the easement estate or possession of the Property.

(e) Neither the bankruptcy nor the insolvency of Grantee shall be grounds for terminating this Agreement as long as all material obligations of Grantee under the terms of this Agreement are performed by the Mortgagee in accordance with the terms hereunder.

(f) Nothing herein shall be construed to extend this Agreement beyond the Term or to require a Mortgagee to continue foreclosure proceedings after a default has been cured. If the default is cured and the Mortgagee discontinues foreclosure proceedings, this Agreement shall continue in full force and effect.

12.3 New Agreement to Mortgagee. If this Agreement terminates because of Grantee's default or if the easement estate is foreclosed upon, or if this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, Owner shall, upon written request from any Mortgagee within ninety (90) days after such event, enter into a new agreement for the Property on the following terms and conditions:

(a) The terms of the new agreement shall commence on the date of termination, foreclosure, rejection or disaffirmance and shall continue for the remainder of the Term, at the same rent and subject to the same terms and conditions set forth in this Agreement.

(b) The new agreement shall be executed within thirty (30) days after receipt by Owner of written notice of the Mortgagee's election to enter a new agreement, provided said Mortgagee: (i) pays to Owner all rent and other monetary charges payable by Grantee under the terms of this Agreement up to the date of execution of the new agreement, as if this Agreement had not been terminated, foreclosed, rejected or disaffirmed; (ii) performs all other obligations of Grantee under the terms of this Agreement, to

the extent performance is then due and susceptible of being cured and performed by the Mortgagee; and (iii) agrees in writing to perform, or cause to be performed, all non-monetary obligations which have not been performed by Grantee and would have accrued under this Agreement up to the date of commencement of the new agreement, except those obligations which constitute non-curable defaults. Any new agreement granted to the Mortgagee shall enjoy the same priority as this Agreement over any lien, encumbrances or other interest created by Owner.

(c) At the option of the Mortgagee, the new agreement may be executed by a designee of such Mortgagee without the Mortgagee assuming the burdens and obligations of Grantee thereunder.

(d) If more than one Mortgagee makes a written request for a new agreement pursuant hereto, the new agreement shall be delivered to the Mortgagee requesting such new agreement whose Mortgage is prior in lien, and the written request of any other Mortgagee whose lien is subordinate shall be void and of no further force or effect.

(e) The provisions of this Section 12 shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section 12 were a separate and independent contract made by Owner, Grantee and such Mortgagee, and, from the effective date of such termination, rejection or disaffirmance of this Agreement to the date of execution and delivery of such new agreement, such Mortgagee may use and enjoy said Property without hindrance by Owner or any person claiming by, through or under Owner, provided that all of the conditions for a new agreement as set forth herein are complied with.

12.4 Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that so long as there exists an unpaid Mortgage, this Agreement shall not be modified or amended and Owner shall not accept a surrender of the Property or any part thereof or accept a cancellation, termination or release of this Agreement from Grantee prior to expiration of the Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and shall be enforceable by such Mortgagee.

12.5 No Waiver. No payment made to Owner by a Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Agreement; and a Mortgagee, having made any payment to Owner pursuant to Owner's wrongful, improper or mistaken notice or demand, shall be entitled to the return of any such payment.

12.6 No Merger. There shall be no merger of this Agreement, or of the easement estate created by this Agreement, with the fee estate in the Property by reason of the fact that this Agreement or the easement estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property and all persons (including Mortgagee) having an interest in this Agreement or in the easement estate or in the estate of Owner and Grantee shall join in a written instrument effecting such merger and shall duly record the same.

12.7 Estoppel Certificates, Etc. Owner shall execute such estoppel certificates (certifying as to such matters as Grantee may reasonably request, including without limitation that no default by Grantee then exists under this Agreement, if such be the case) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Grantee, any transferee of Grantee or Mortgagee may reasonably request from time to time. The failure of Owner to deliver any estoppel certificate within fifteen (15) days after Grantee's written request therefor shall be conclusive evidence that (i) this Agreement is in full force and effect and has not been modified; (ii) any amounts payable by Grantee to Owner have been paid through the date of such written request; (iii) there are no uncured defaults by Grantee; and (iv) the other certifications requested by Grantee in its estoppel,

are in fact, true and correct. Owner has an affirmative obligation to disclose to Grantee and any all unrecorded interests in and to the Property, including oral leases or agreements, throughout the Term of this Agreement.

13. Termination.

13.1 Grantee's Right to Terminate. Grantee shall have the right to terminate this Agreement as to all or any part of the Property at any time and without cause, effective upon written notice to Owner from Grantee.

13.2 Owner's Right to Terminate. Owner shall have the right to terminate all or any portion of its rights in this Agreement after the seventh (7th) anniversary of the Effective Date if, at the time Owner's written termination notice is delivered, Grantee has not commenced construction of Solar Facilities for the Project on or near the Property.

13.3 Effect of Termination. Upon termination of this Agreement, Grantee shall, as soon as practicable thereafter, but not later than two (2) years after the termination, remove above-ground and below-ground (to a depth of three (3) feet below grade) Solar Facilities from the Property (the "**Remediation Term**"), without additional charge or rental for such entry and removal, and without such entry constituting a holdover. All Property disturbed by Grantee shall be restored to a condition reasonably similar to its original condition as it existed upon the Effective Date.

(a) Upon the expiration or termination of this Agreement, and through the date Grantee completes the removal of its Solar Facilities from the Property, Grantee shall pay Owner [twenty percent (20%)] of the Operating Fees (as defined in Exhibit B) that were paid to Owner during the immediately preceding calendar year. This percentage shall be prorated, and paid out monthly in twelve (12) installments during the Remediation Term (the "**Remediation Term Fees**").

(b) If Grantee fails to remove such Solar Facilities within twelve (12) months of termination of this Agreement, or such longer period as Owner may provide by extension, Owner shall have the right to restore the Property and remove, or to cause removal of, any property owned by Grantee to the extent required by Grantee under this Section 13.3, and the right to receive reimbursement, less the salvage value of the Solar Facilities, from Grantee for any remaining amounts reasonably incurred for removal and restoration of the Property.

14. Miscellaneous.

14.1 Force Majeure. If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of Force Majeure (defined below), the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference, and the Term or any other time periods herein shall be extended for such period of time. The affected Party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. "Force Majeure" means fire, earthquake, flood, pandemic, or other casualty, condemnation or accident; strikes or labor disputes; war, acts of terrorism, civil strife or other violence; any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility, including, without limitation, "stay-at-home" or "shelter-in-place" orders; or any other act or condition beyond the reasonable control of a Party hereto.

14.2 Confidentiality. To the fullest extent allowed by law, Owner shall maintain in the strictest confidence, and Owner shall require each Related Person of Owner to maintain in the strictest confidence, for the sole benefit of Grantee, all information pertaining to the financial terms of or payments under this Agreement, Grantee's site or product design, methods of operation, methods of construction, power production or availability of the Solar Facilities, and the like, whether disclosed by Grantee or

discovered by Owner, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Owner or any Related Person of Owner, or (ii) was already known to Owner at the time of disclosure and which Owner is free to use or disclose without breach of any obligation to any person or entity. To the fullest extent permitted by law, Owner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Grantee. Notwithstanding the foregoing, Owner may disclose such information to any auditor or to Owner's family members, lenders, attorneys, accountants and other personal advisors; any prospective purchaser of or lenders for the Property; or pursuant to lawful process, subpoena or court order; provided Owner in making such disclosure advises the party receiving the information of the confidentiality of the information and obtains the agreement of said party not to disclose the information.

14.3 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon Owner and Grantee and, to the extent provided in any assignment or other transfer under Section 10 hereof, any transferee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them. References to Grantee in this Agreement shall be deemed to include transferees of Grantee that hold a direct ownership interest in this Agreement and actually are exercising rights under this Agreement to the extent consistent with such interest.

14.4 Memorandum; Recording. At Grantee's option: (i) Grantee may record a copy of this Agreement, excluding Exhibit B, or (ii) upon request from Grantee, Owner shall execute in recordable form, and Grantee may then record, a memorandum of this Agreement substantially in the form of Exhibit D attached hereto, incorporating only those non-substantive changes to the form as may be required by the applicable jurisdiction in which recording is sought and to reflect the terms of this Agreement. Owner hereby consents to the recordation of the interest of a transferee of Grantee in the Property. With respect to the First Extended Term and Second Extended Term, upon request from Grantee, Owner shall execute, in recordable form, and Grantee may then record, a memorandum evidencing the First Extended Term and Second Extended Term, as applicable; provided that the execution of such memorandum is not necessary for such First Extended Term or Second Extended Term to be effective.

14.5 Notices. All notices or other communications required or permitted by this Agreement, including payments to Owner, shall be in writing and shall be deemed given when personally delivered to Owner or Grantee, or in lieu of such personal delivery services, the same day if sent via facsimile with confirmation, the next business day if sent via overnight delivery or five (5) days after deposit in the United States mail, first class, postage prepaid, certified, addressed as follows:

14.6 Marital Confirmation. N/A

If to Owner:

U.S. Farmland Fund, L.P.  
111 Main Ave.  
Brookings, SD 57006  
Telephone: 605-696-3107

Fax: \_\_\_\_\_

If to Grantee:

Invenergy Solar Project Development  
LLC  
c/o Invenergy LLC  
One S. Wacker Drive, Suite 1800  
Chicago, Illinois 60606  
Attn: General Counsel  
Fax: 312-224-1444

Either Party may change its address for purposes of this paragraph by giving written notice of such change to the other Parties in the manner provided in this paragraph.

14.6 Entire Agreement; Amendments. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between Owner (and its respective successors, heirs, affiliates and assigns) and Grantee (and its respective successors, heirs, affiliates and assigns) respecting its subject matter, and supersedes any and all oral or written agreements. All of the provisions of the Exhibits shall be treated as if such provisions were set forth in the body of this Agreement and shall represent binding obligations of each of the Parties as part of this Agreement. Any agreement, understanding or representation respecting the Property, or any other matter referenced herein not expressly set forth in this Agreement or a previous writing signed by both Parties is null and void. No purported modifications or amendments, including without limitation any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either Party unless in a writing signed by both Parties. Provided that no material default in the performance of Grantee's obligations under this Agreement shall have occurred and remain uncured, Owner shall cooperate with Grantee in amending this Agreement from time to time to include any provision that may be reasonably requested by Grantee for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of any transferee of Grantee or Mortgagee.

14.7 Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Dakota. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state courts located in the County. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is hereby waived. The prevailing Party in any action or proceeding for the enforcement, protection or establishment of any right or remedy under this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing Party.

14.8 Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding. Notwithstanding any other provision of this Agreement, the Parties agree that in no event shall the Term, or the term of any easement granted herein be longer than, respectively, the longest period permitted by applicable law.

14.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

14.10 Tax and Renewable Energy Credits. All benefits and incentives that result from Grantee's development and use of the Property for solar energy purposes shall accrue to the benefit of Grantee, including but not limited to any portfolio energy credits, rebates in lieu of portfolio energy credits, any reductions or credits in taxes and/or assessments, rebates, financing, federal, state and local grants, reductions in fees, participation in federal, state or local special programs or tax districts, and special programs of public utilities. If under applicable law, the holder of an easement estate becomes ineligible for any tax credit, renewable energy credit or rebate, environmental credit or any other benefit or incentive for renewable energy established by any local, state or federal government, or any public utility, then, at Grantee's option, Owner and Grantee shall exercise good faith and negotiate an amendment to this Agreement or replace it with a different instrument so as to convert Grantee's interest in the Property to a substantially similar interest that makes Grantee eligible for such credit, benefit, rebate, or incentive.

14.11 No Partnership. Nothing contained in this Agreement shall be construed to create an association, joint venture, trust or partnership covenant, obligation or liability on or with regard to any one or more Parties in this Agreement.

14.12 Waiver of Right to Trial by Jury. EACH OF THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. EACH OF THE PARTIES TO THIS AGREEMENT WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS PROVISION IS A MATERIAL INDUCEMENT TO EACH OF THE PARTIES FOR ENTERING INTO THIS AGREEMENT.

14.13 Public Officials. Owner acknowledges that its receipt of monetary and other good and valuable consideration hereunder may represent a conflict of interest if Owner is a government employee or otherwise serves on a governmental entity with decision-making authority (a "**Public Official**") as to any rights Grantee may seek, or as to any obligations that may be imposed upon Grantee in order to develop and/or operate the Project ("**Development Rights**"), and Owner hereby agrees to (1) recuse him/herself from all such decisions related to Grantee's Development Rights unless such recusal is prohibited by law or is not reasonably practicable considering the obligations of such Public Official's position and (2) recuse him/herself from all such decisions related to Grantee's Development Rights if such recusal is required by law. If Owner is not required pursuant to (1) or (2) above to recuse him/herself from a decision related to Grantee's Development Rights, Owner shall, in advance of any vote or other official action on the Development Rights, disclose the existence of this Agreement (but not the financial terms therein) at an open meeting of the relevant governmental entity Owner serves on as a Public Official. Additionally, if Owner is a Public Official and any of Owner's spouse, child or other dependent has a financial interest in the Project, Owner shall disclose such relationship (but not the financial terms thereof) at an open meeting of the relevant governmental entity Owner serves on as a Public Official, prior to participation in any decision related to Grantee's Development Rights.

[Signatures on Following Page]

IN WITNESS WHEREOF, Owner and Grantee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

**OWNER:**

**U.S. Farmland Fund, L.P.**

By: Chad Haselhorst  
Name: Chad Haselhorst  
Title: Vice-President

**GRANTEE:**

Invenergy Solar Project Development LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



IN WITNESS WHEREOF, Owner and Grantee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

**OWNER:**

**U.S. Farmland Fund, L.P.**

By: \_\_\_\_\_  
Name: Chad Haselhorst  
Title: Vice-President

**GRANTEE:**

Invenergy Solar Project Development LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Jon Saxon  
Title: Vice President

**EXHIBIT A**  
**Description of the Property**

**The South Half of the South Half (S½S½) of Section Twenty-seven (27), Township One Hundred Fourteen (114) North, Range Forty-eight (48), West of the 5<sup>th</sup> P.M. (Norden Township), Deuel County, South Dakota**

**Record #907**

**EXHIBIT B**  
**Payment Terms**

In consideration for the rights provided to Grantee under the Agreement, Grantee agrees to make payments to Owner as follows:

1. **Development Term Fees.** Beginning on the Effective Date and ending upon the start of the Construction Term, Grantee shall pay Owner an annual fee of twenty dollars (\$20) per Net Acre (the "**Development Term Fee**"). Payment of the Development Term Fee shall be made annually, with the first payment due within forty-five (45) days following the Effective Date and each subsequent payment shall be due on or before each anniversary of the Effective Date, as applicable.

2. **Construction Term Fees.** Upon commencement of the Construction Term and ending on the Operations Date, Grantee shall pay owner an annual fee of two hundred and seventy five dollars (\$275) per Net Acre less any Crop Damage Compensation received (the "**Construction Term Fee**"). Payment of the Construction Term Fee shall be made annually, with the first payment due within forty-five (45) days following the commencement of construction and each subsequent payment shall be due on or before each anniversary of the Construction Term, as applicable.

3. **Limited Construction Activities Fee.** In the event Grantee commences any Limited Construction Activities on the Property Grantee shall continue to make all ongoing Development Term payments due under this Agreement plus an additional annual payment of five thousand dollars (\$5,000) until the start of the Construction Term.

4. **Operating Fees.** Beginning on the Operations Date and ending on the date on which Grantee ceases to operate the Solar Generating Equipment on the Property, Grantee shall pay to Owner the below annual amounts (collectively "**Operating Fees**"). Notwithstanding the above, Owner acknowledges that Grantee may build the Project in phases and all of the Property may not be included in the initial phase or subsequent phase(s). The portion of the Property on which Solar Facilities are not installed as of the Operations Date(s) shall be referred to herein as "**Undeveloped Property**" until the date that Grantee installs Solar Facilities on said Property or portion thereof:

(a) **Fixed Fee.** If any Solar Facilities are installed on the Property, Grantee shall pay to Owner a fixed annual fee of EIGHT HUNDRED DOLLARS (\$800) times the number of Net Acres of the Developed Property then subject to the Agreement at the Operations Date (the "Fixed Fee"). The "Developed Property" shall be the greater of a) that portion of the Property on which Solar Generating Equipment (including all related Solar Facilities within the fence and Grantee's roads) is installed on or after the Operations Date for any calendar year, or b) 90% of the "tillable acres" on the Property. Tillable Acres shall be the tillable acres as defined by the local Farm Service Agency for the Property on parcel by parcel basis and included in Exhibit D of this Agreement. For purposes of this Agreement "Net Acre" or "Net Acreage" means the gross area of the portion of the Property occupied by Solar Generating Equipment, including all fences, landscaping, road easements and rights-of-way but excluding any and all easements and rights-of-way within existing public or utility rights-of-way. Net Acreage shall be determined by a survey prepared by a surveyor licensed in the state in which the Property exists. Within ninety (90) days of the Operations Date, Grantee shall have a licensed surveyor complete a survey of the Developed Property and calculate the total acreage of such Developed Property as of such date.and,

(b) **Undeveloped Property Fee.** Grantee shall pay Owner, as applicable, a fee equal to the product of TWENTY DOLLARS per Net Acre (\$20 /Net Acre) times the number of Net Acres of the Undeveloped Property (the "**Undeveloped Property Fee**"), then subject to the Agreement.

The Undeveloped Property shall be the Net Acreage of the Property less the Net Acreage of the Developed Property.

(c) Payment of Operating Fees. For the first payment of Operating Fees, Grantee shall receive a credit for any Development Term Fees and Construction Term Fees paid equal to the proportion of such Development Term Fee [and Construction Term Fee] that is applicable for time periods occurring after the Operations Date. The payment of the Fixed Fee and Undeveloped Property Fee, as applicable, each calendar year shall be made in semi-annual installments, the first semi-annual payment shall be due on or before one hundred twenty (120) days following the Operations Date (or anniversary thereof) and the second semi-annual payment shall be due on or before six (6) months following the Operations Date (or anniversary thereof). Owner shall have the right to receive, upon written request, a statement from Grantee showing the computational basis for Owner's semi-annual payments.

(d) Inflation. Commencing on the first year after the Operations Date, such Operating Fees shall be adjusted upwards by the greater of (i) two percent (2%) per year on a compounded basis or (ii) by the percentage change, if any, in the CPI for the preceding available four quarters. "CPI" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-1984=100) as published by the Bureau of Labor Statistics.

5. Late Payment Penalty. If Grantee fails to make any payment to Owner required of it hereunder when due, interest shall accrue on the overdue amount, from the date of expiration of Grantee's cure period until the date paid, at a rate equal to the sum of: (i) two percent (2%) per annum; plus, (ii) the prime lending rate as from time to time may be published by The Wall Street Journal under the "Money Rates" section; provided, that in no event shall such total interest exceed the maximum rate permitted by law.

6. IRS Form W-9/ Property Use. Notwithstanding anything in this Agreement to the contrary, Grantee shall have no obligation to make any payment to Owner otherwise required under this Agreement until Owner has (i) returned to Grantee a completed Internal Revenue Service Form W-9 (such W-9 form to either (a) have been provided by Grantee to Owner prior to execution of this Agreement or (b) be provided by Grantee to Owner promptly upon execution of this Agreement), and (ii) inserted in the table below to the best of Owner's knowledge, the approximate acreage of the Property that is currently being used (or has been used within the last five (5) years) for crops, pasture, forest or timber, other agricultural use, or a non-agricultural purpose (e.g., idle land, roadways, parking lot, commercial use, etc.) If none of the acreage falls into one of these categories, put "0" or "None".

Land Type:	Crop	Pasture	Forest or Timber	Other Agricultural Use	Non-Ag Use
Acreage:	<input type="checkbox"/> 15.6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 10.4

7. Payment Instructions. Unless otherwise indicated in the table below, all payments issued hereunder will be paid to Owner, and if Owner is comprised of more than one person or entity, such payments will be issued by a single check payable to all such persons or entities. If Owner elects to have payments made as set forth in the table below, Owner and each person or entity holding record title to the Property hereby acknowledges and agrees that all payments are legally permitted to be made as set forth in the table below and that no other party shall have any right to such payments or to contest the payments and allocations as set forth below. Each person receiving payment pursuant to the table below hereunder agrees to fully indemnify, defend and hold harmless Grantee against claims and liability by any third party in connection with its payments hereunder to the person/entities set forth herein. **Check one below:**

A single check should be issued payable to all persons/entities comprising Owner.

Separate checks should be issued to each Owner as set forth below:

<b>Owner:</b>	<b>U.S. Farmland Fund, L.P.</b>
<b>Payment Allocation:</b>	<b>100%</b>

8. **Crop Compensation.** Grantee shall pay Owner one-time compensation for any and all portions of the Property where permanent Solar Facilities are not constructed that are either taken out of commercial crop production for a season because of the construction of the Solar Facilities, or that are removed or damaged as a direct result of Grantee's construction of the Solar Facilities on the Property ("Crop Damage Compensation"). Portions of the Property shall be deemed to have been taken out of commercial crop production only if the Owner was actually farming such portions of the Property immediately prior to Grantee's commencing construction of the Solar Facilities on the Property. The Crop Damage Compensation shall be deemed full compensation for any losses of income, rent, business opportunities, profits or other losses arising out of such Grantee construction. Crop Damage Compensation shall be equal to the fair market value of the crops that are damaged per season, but a minimum of the following amounts determined by multiplying the total acreage of damaged cultivated crops, specialty crops, pasture or hay on the Property for which Grantee is responsible pursuant to this Agreement by the following amounts: (i) hay at Two Hundred Sixty and no/100 Dollars (\$260.00) per acre, (ii) corn at Six Hundred and no/100 Dollars (\$600.00) per acre, (iii) oats at One Hundred Seventy-Five and no/100 Dollars (\$175.00) per acre, (iv) pasture at Fifty-Five and no/100 Dollars (\$55.00) per acre, (v) soybeans at Six Hundred and no/100 Dollars (\$600.00) per acre, and (vi) wheat at Six Hundred and no/100 Dollars (\$600.00) per acre. If less than one acre of Owner's cultivated crops, pasture or hay on the Property is damaged by Grantee's activities on the Property, the applicable dollar amount per acre shall be reduced proportionally. The Parties shall attempt, in good faith, to agree upon the extent of damage and amount of acreage affected. If the Parties cannot agree, the Parties shall have the area measured and the extent of damage assessed by an impartial party chosen by mutual agreement of the Parties, such as a crop insurance adjuster.

**EXHIBIT C**  
**Special Conditions**

**EXHIBIT D**  
**Form of Recording Memorandum**

**[see attached]**

**After recording return to:**  
Invenergy Solar Development LLC  
c/o Invenergy LLC  
One South Wacker Drive  
Suite 1800  
Chicago, Illinois 60606  
ATTN: Land Administration

THIS SPACE FOR RECORDERS USE ONLY

### MEMORANDUM OF SOLAR EASEMENT AGREEMENT

THIS MEMORANDUM OF SOLAR EASEMENT AGREEMENT (this "Memorandum"), is made, dated and effective as of [ July 12 ], 2021 (the "Effective Date"), between **U.S. Farmland Fund, L.P.** (together with their successors, assigns and heirs, "Owner"), whose address is 111 Maine Ave., Brookings, SD 57006, and **INVENERGY SOLAR PROJECT DEVELOPMENT LLC**, a Delaware limited liability company (together with its transferees, successors and assigns, "Grantee"), whose address is One South Wacker Drive, Suite 1800, Chicago, IL 60606, with regards to the following:

07/12/2021 Owner and Grantee did enter into that certain SOLAR EASEMENT AGREEMENT dated (the "Agreement"), which affects the real property located in Deuel County, South Dakota, as more particularly described in Exhibit A attached hereto (the "Property"). Capitalized terms used and not defined herein have the meaning given the same in the Agreement.

2. The Agreement grants, and Owner hereby grants, Grantee, among other things, (a) the exclusive right to develop and use the Property, including, without limitation, for converting solar energy into electrical energy and collecting and transmitting the electrical energy so converted; (b) an exclusive easement to capture, use and convert the unobstructed solar flux over and across the Property from all angles and from sunrise to sunset at the Property during each day of the Term; and (c) an exclusive easement for electromagnetic, audio, visual, glare, electrical or radio interference attributable to the Solar Facilities or Site Activities. The Agreement contains, among other things, certain Owner and third party use and development restrictions on the Property.

3. The Agreement shall be for an initial term of seven years, a construction term of three years, a first extended term of twenty-five (25) years and second extended term of twenty-five (25) years, not to exceed fifty (50) years in total, if the terms and conditions of the Agreement are met.

4. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Agreement, and Owner and Grantee executed and are recording this Memorandum for the purposes set forth herein and for providing constructive notice of the Agreement and Grantee's rights thereunder and hereunder. The terms, conditions and covenants of the Agreement are set forth at length in the Agreement and are incorporated herein by reference as though fully set forth herein. This Memorandum shall not, in any manner or form whatsoever, alter, modify or vary the terms, covenants and conditions of the Agreement.

5. This Memorandum shall also bind and benefit, as the case may be, the heirs, legal representatives, assigns and successors of the respective parties hereto, and all covenants, conditions and agreements contained herein shall be construed as covenants running with the land to the extent consistent with applicable law.



6. Owner shall have no ownership, lien, security or other interest in any Solar Facilities installed on the Property, or any profits derived therefrom, and Grantee may remove any or all Solar Facilities at any time.

7. This Memorandum may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

[signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

**OWNER:**

**U.S. Farmland Fund, L.P.**

**GRANTEE:**

Invenergy Solar Project Development LLC,  
a Delaware limited liability company

By: Chad Haselhorst  
Name: Chad Haselhorst  
Title: Vice-President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



IN WITNESS WHEREOF, the parties have executed this Memorandum to be effective as of the date first written above.

**OWNER:**

**U.S. Farmland Fund, L.P.**

By: \_\_\_\_\_  
Name: Chad Haselhorst  
Title: Vice-President

**GRANTEE:**

Invenergy Solar Project Development LLC,  
a Delaware limited liability company

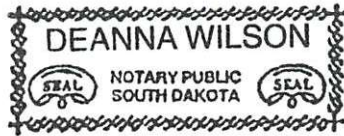
By: \_\_\_\_\_  
Name: **Jon Saxon**  
Title: **Vice President**



**ACKNOWLEDGMENT OF OWNER**

STATE OF SD )  
 ) SS.  
COUNTY OF Brookings )

Personally came before me this 9 day of July, 2021, **Chad Haselhorst**, who executed the foregoing instrument as **Vice-President of U.S. Farmland Fund, L.P.**, and acknowledged the same.



(S E A L)

Name: Deanna Wilson  
Notary Public, State of SD  
My Commission Expires: 9/26/24

**ACKNOWLEDGMENT OF GRANTEE**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, \_\_\_\_\_ who executed the foregoing instrument as Vice President of Invenergy Solar Project Development LLC, and acknowledged the same.

(S E A L)

Name: \_\_\_\_\_  
Notary Public State of \_\_\_\_\_

**ACKNOWLEDGMENT OF OWNER**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021, **Chad Haselhorst**, who executed the foregoing instrument as **Vice-President of U.S. Farmland Fund, L.P.**, and acknowledged the same.

( S E A L )

Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

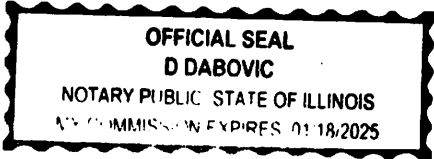
**ACKNOWLEDGMENT OF GRANTEE**

STATE OF IL )  
 ) SS.  
COUNTY OF Cook )

Personally came before me this 8 day of July, 2021, Jonathan Saxon who executed the foregoing instrument as Vice President of Invenergy Solar Project Development LLC, and acknowledged the same.

( S E A L )

Name: [Signature]  
Notary Public State of Illinois



**EXHIBIT A**  
**Description of the Property**

**The South Half of the South Half (S½S½) of Section Twenty-seven (27), Township One Hundred Fourteen (114) North, Range Forty-eight (48), West of the 5<sup>th</sup> P.M. (Norden Township), Deuel County, South Dakota**

**Record #907**