

**SOLAR ENERGY  
ROOFTOP LEASE AGREEMENT**

**BY AND BETWEEN**

**THE CITY OF OLYMPIA, A WASHINGTON MUNICIPAL CORPORATION, AND THE  
HANDS ON CHILDREN'S MUSEUM, A WASHINGTON NON-PROFIT CORPORATION,**

**AS LANDLORDS**

**AND**

**OLYMPIA COMMUNITY SOLAR, A WASHINGTON NON-PROFIT CORPORATION,**

**AS TENANT**

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Appendix 1 Solar Equipment

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## **SOLAR ENERGY FACILITY ROOFTOP LEASE AGREEMENT**

THIS ROOFTOP LEASE AGREEMENT (sometimes referred to alternatively as "Lease" or "Agreement"), is made and entered into as of the last date shown below by a party executing this Lease (the "Effective Date"), between the CITY OF OLYMPIA, a Washington municipal corporation, and THE HANDS ON CHILDREN'S MUSUEUM, a Washington non-profit corporation (collectively, "Landlords"), and OLYMPIA COMMUNITY SOLAR, a Washington non-profit corporation ("Tenant"), collectively referred to as the "Parties."

### **RECITALS**

A. Tenant is a Washington non-profit corporation formed for the purpose of developing, installing and administering the community solar power generation system covered by this Lease. Tenant enters into this Lease in order to install and operate Solar Equipment in and on the rooftop of the Building described in this Lease for the purpose of providing a solar power system for said Building.

B. Landlord, City of Olympia, a Washington municipal corporation, owns the Building and rooftop that is the subject of this Lease. The City of Olympia desires to promote community efforts to promote solar power generation projects to reduce carbon emissions and other pollutants. Landlord, City of Olympia, has the legal authority to grant the above referenced non-exclusive Lease to Tenant, subject to certain terms and conditions set forth herein.

C. Landlord, The Hands on Children's Museum (HOCM), a Washington non-profit corporation, leases the building from the City of Olympia and occupies the Building. Landlord, HOCM, desires to utilize the clean power generated by the solar equipment installed by Tenant for its own operations and to advance its own community purposes and has the legal authority to grant the above referenced non-exclusive Lease to Tenant, subject to certain terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

### **I. GRANT OF ROOFTOP LEASE**

#### **1.1 DEFINITIONS**

In addition to terms defined in this Lease, the following terms set forth below will be defined as follows:

1.1.1 "Building" will mean that certain building located at 414 Jefferson St NE, Olympia WA, currently known as the Hands On Children's Museum.

1.1.2 "Equipment Space" will mean that equipment rack space located in the attic and mechanical room of the Building and any portion of the Building, including the Rooftop, that contains Solar Equipment.

1.1.3 "Rooftop" will mean the applicable portions of the Building's roof of the HOCM designated by Landlord, City of Olympia and Landlord, HOCM, as the space for installation of the solar equipment.

1.1.4 "Solar Equipment" will mean Tenant's solar generation facility and related equipment including wiring, cabling and other accessories used therewith for installation, operation and maintenance on the Rooftop and in the Equipment Space, and described on the attached and incorporated herein in Appendix 1.

## 1.2 LEASE TO USE AND ACCESS TO ROOFTOP

1.2.1 Subject to the terms and conditions contained in this Lease, Landlords hereby grant to Tenant and Tenant agrees to accept the non-exclusive right to use that portion of the Rooftop as designated in Appendix 1 for the installation, operation and maintenance, at Tenant's sole cost and expense, of the Solar Equipment. Throughout the Term of the Lease, as described below, Landlords hereby grant Tenant a nonexclusive easement through the Building, including all elevators, stairways or other access points of egress and ingress for purposes of accessing the Rooftop for the purpose described herein and pursuant to the terms and conditions of Section 1.7 below. Tenant's right to ingress and egress herein shall be done at a time and in a manner that does not interfere with the business and operations of the HOCM.

1.2.2 Tenant acknowledges that it has inspected the Rooftop, that Landlords have made no representations or warranties respecting the condition thereof or otherwise or its suitability for Tenant's use, and that, except as may be expressly provided to the contrary in this Lease, Landlords have no obligation or duty to make any alterations, improvements, or repairs in and to the Rooftop to make same ready for Tenant's use and occupancy and Tenant takes and accepts the Rooftop in its present "as is" condition.

## 1.3 EQUIPMENT SPACE

Landlords acknowledge that Tenant will be installing equipment in the Equipment Space and that the installation, maintenance and use of the Equipment Space will be at Tenant's sole expense and is subject to the terms of this Lease.

## 1.4 TERM OF ROOFTOP LEASE

This Lease will commence on the Effective Date and will terminate on the date that is fifteen (15) years from the Effective Date (the "Term"), provided that the Lease will terminate two (2) years from the Effective Date if the Tenant has not completed the installation of the Solar Equipment. Tenant shall have an option to renew the Lease for an additional five (5) year term if the cost of installation, maintenance and administration of the Solar Equipment has not been recouped during the initial Lease term. Tenant shall provide Landlords a written estimate of the cost for the Solar Equipment prior to installation. Tenant shall provide Landlords with an annual accounting that indicates the amount recouped by Tenant of its costs for installation, maintenance and administration of the Solar Equipment. Tenant must give Landlords ninety (90) days written notice of Tenant's intent to renew the Lease prior to termination of the initial Lease term. Tenant will surrender the Rooftop to Landlords in good condition and repair (subject to ordinary wear and tear). If Tenant is in default of this Lease, then Landlords can prohibit the removal of any of the Solar Equipment, in their sole discretion, until the default is cured. The Tenant will, upon the termination of the Lease transfer and convey the Solar Equipment, cabling and accessories installed on the Rooftop and in the Equipment Space to the Landlord, City of Olympia, without further consideration, by executing a Bill of Sale conveying same to Landlord, City of Olympia, the same having been fully depreciated. In the event Tenant defaults under the terms of this Lease, or fails to repair or maintain the Solar Equipment, its cabling and accessories, then Landlord, City of Olympia, is entitled to take possession and ownership of said Solar Equipment, cabling and accessories without further consideration as liquidated damages for Tenant's default.

## 1.5 FEES PAID FOR ROOFTOP LEASE

Tenant agrees to pay Landlord, City of Olympia, a fee for this Lease, without notice, setoff or demand, of One and No Cents Dollars (\$1.00) per year, commencing with the Effective Date and payable on January 31<sup>st</sup> of each year thereafter during the term of this Lease. Such payments will be made in person or by United States Mail, postage prepaid, to the address of this Landlord, City of Olympia, set forth in Paragraph 3.4. The annual fee may

be paid in advance by Tenant. The amount of the fee is based on the Tenant's representation that it shall not be operated in a manner to return a profit. Either Landlord, the City of Olympia or HOCM, shall have the right to inspect the Tenant's corporate records relating to the costs of installation, maintenance and administration of the Solar Equipment and recoupment of said costs.

## 1.6 RESPONSIBILITIES OF TENANT

1.6.1 Plans and Specifications of Solar Equipment. Tenant, at Tenant's sole expense, will design, procure and install the Solar Equipment in accordance with its plans and specifications, which plans and specifications Tenant will share with the Landlords. Tenant is responsible for all costs associated with the Lease, including the costs of installing, operating and maintaining the Solar Equipment. The Tenant will fully depreciate the fair market value of the equipment over the term of this Lease or its option term.

1.6.2 Use and Maintenance. This Lease is limited to allowing Tenant only to install, maintain and operate the Solar Equipment on the Rooftop and Equipment Space in the location or locations described in Appendix 1.

Tenant agrees not to use or permit the use of the Rooftop or Equipment Space for any purpose which is illegal, dangerous to life, limb or property or which, in either Landlord's reasonable opinion, creates a nuisance or which would increase the cost of insurance coverage with respect to the Building. In particular, no environmentally hazardous materials will either be used or stored in or around the Rooftop and Equipment Space and no such materials will be used in any of the Solar Equipment installed by Tenant on the Rooftop or in the Equipment Space. Tenant will not permit unauthorized person or persons with insufficient expertise or experience to access the Equipment Space or maintain or operate the Solar Equipment. Tenant and Landlords understand that the Equipment Space must be kept locked and secure at all times. Access to the Equipment Space shall be permitted to agents and employees of Tenant and Landlords for installation, maintenance and inspection purposes.

Tenant acknowledges that interruptions in utility services and power surges are not uncommon in facilities such as the Building. Tenant acknowledges that all Solar Equipment in the Building is the sole responsibility of Tenant and that the use and operation of such Solar Equipment is at Tenant's sole risk.

Landlord City of Olympia reserves the right to maintain the Property and Building in any way it deems fit. In the event that Landlords desire to conduct maintenance of the roof portion of the Building, Landlords agree to provide a courtesy one (1) month written notice to Tenant. Tenant agrees to accommodate Landlords by taking whatever action necessary to secure the Equipment, or to remove it temporarily, in order for Landlords to make repairs and/or perform necessary maintenance. Landlords will use their best efforts to timely perform any work which requires Tenant to remove or otherwise disable its Equipment. Should roof maintenance or replacement require removal of equipment, such removal shall be at the sole expense of the Tenant and Tenant will use its best efforts to work with Landlords to allow necessary maintenance, repair, and/or replacement.

1.6.3 Care and Maintenance by Tenant. Tenant agrees not to commit any waste or allow any waste to be committed within or on any portion of the Rooftop and will not injure the Rooftop, Equipment Space or Building but will maintain the Rooftop and Equipment Space in a clean condition and in good repair, except as to damage to be repaired by Landlords, as provided herein. Tenant will remove all excess cable, tools and equipment and will keep all areas neat and clean at all times. At the termination of this Lease, Tenant agrees to deliver up the Rooftop and Equipment Space to Landlords in as good condition as at the date of the commencement of the term of this Lease, ordinary wear and tear excepted.

1.6.4 Site Technical Standards. Tenant agrees that the installation, operation and maintenance of its Solar Equipment will at all times, and at Tenant's sole cost and expense, comply with such technical standards for the Rooftop and Equipment Space as may from time to time be established by Landlords, City of Olympia and Hands On Children's Museum, in said Landlords' reasonable discretion, including, without limitation, technical standards relating to structural engineering, and city construction permits (the "Site Technical Standards").

1.6.5 Removal of Solar Equipment. Tenant will remove its Solar Equipment within thirty (30) business days after the termination of this Lease if requested by Landlords, provided Tenant repairs any damage to the Building (including the Rooftop and Equipment Space) caused thereby, excluding ordinary wear and tear. To assure that Tenant will remove its Solar Equipment and will effect such repairs, as security Landlords, City of Olympia and Hands On Children's Museum may require Tenant to deposit \$10,000 cash into an escrow account, which Landlord, City of Olympia, shall be authorized to draw upon in the event of Tenant's failure to timely remove the Solar Equipment. Tenant will not be permitted to remove any moveable Solar Equipment or other personal property or equipment from the Rooftop at any time, including at the end of the Lease Term or any renewal thereof or other sooner termination of this Lease, if Tenant is then in default under this Lease.

If Tenant does not remove its Solar Equipment (to the extent such is entitled to be removed) on or prior to the expiration or termination of this Lease without the written consent of Landlords to maintain the Solar Equipment at the Rooftop or Equipment Space, Tenant's Solar Equipment will be conclusively deemed to be abandoned (after Landlords have given Tenant twenty (20) business days' written notice of such expiration or termination) and said Solar Equipment will become Landlord, City of Olympia's property, and this Landlord may remove and/or dispose of such Solar Equipment as Landlord, City of Olympia, sees fit, all at Tenant's cost and expense. In connection therewith, provided Tenant is not in default hereunder, Landlord, City of Olympia, agrees that if Tenant requests permission to maintain its Solar Equipment on the Rooftop after the termination of this Lease, Landlord, City of Olympia, will not unreasonably withhold its consent thereto. Such consent will be deemed to be reasonably withheld if such space is relet to a third party or if the marketing of such space is inhibited by the presence of the Solar Equipment.

## 1.7 RESPONSIBILITIES OF LANDLORDS

1.7.1 Rights of Access and Provision of Space and Facilities. Both Landlords will provide employees or agents of Tenant rights of ingress and egress in those portions of the Building under their control and will provide Tenant with access to and use of the Rooftop and Equipment Space consistent with the requirements of the installation, operation, maintenance, and service of the Solar Equipment; provided, however, such rights of ingress and egress will be (i) limited to reasonable hours; (ii) subject to the terms and conditions of any leases between either Landlord and other tenants; and (iii) subject to rules and regulations reasonably promulgated from time to time by either Landlord regarding such rights of ingress and egress.

1.7.2 Non-Interference. Tenant will have the sole and exclusive right to install and operate solar energy generating equipment on the Rooftop. In no event during the Term will either Landlord construct, build or locate, or allow others to construct, build, or locate any equipment or facilities (solar or otherwise) on the property that would unreasonably interfere with the Solar Equipment or otherwise engage in, or allow others to engage in activity, that might impede the Solar Equipment's access to the sun or decrease the output or efficiency of the Solar Equipment.

1.7.3 Electricity Purchase. Landlord, HOCM, agrees that it shall pay the Tenant monthly for electricity generated by the Solar Equipment at the then-applicable tariff rate on file with the Washington Utilities and

Transportation Commission until the sooner of: the Lease is terminated, expires or Tenant has recouped its costs of installation, maintenance and administration of the Solar Equipment..

1.7.4 Upon Termination of Lease. Upon the termination of the Lease, Landlord City of Olympia shall own the Solar Equipment and shall be solely responsible for the maintenance and upkeep of such Solar Equipment, except as expressly provided in Subparagraph 1.7.5 below. HOCM shall receive all the benefit of the electricity generated by the Solar Equipment.

1.7.5 Maintenance by Landlords. Upon termination of the Lease, Landlord HOCM shall be responsible for annual routine maintenance such as cleaning the solar panels and Landlord City of Olympia shall be responsible for major maintenance such as solar panel replacement during the useful life of the solar energy equipment, for a period not to exceed thirty (30) years.

## **II. GENERAL COVENANTS**

### **2.1 USE OF ELECTRICAL SERVICES BY TENANT**

Landlords will furnish Tenant electrical facilities to provide sufficient power for Tenant's Solar Equipment; provided, however, that Tenant will be responsible for (i) the cost of installing such facilities, (ii) the cost of the installation of any separate meters required by Tenant, and (iii) the sums charged either Landlord by the applicable utility for such service as reflected by such meter. Temporary interruption in the power provided by such facilities will not render either Landlord liable in any respect for damages to either person or property nor relieve Tenant from fulfillment of any covenant or agreement hereof. If any of Tenant's Solar Equipment fails because of a loss of electrical power, Landlords will use reasonable diligence to restore electrical power promptly, but Tenant will have no claim for damages on account of any interruption in electrical service occasioned thereby or resulting therefrom.

### **2.2 CONSTRUCTION, ALTERATION AND MAINTENANCE**

In addition to and not in limitation of any provision herein concerning construction, alterations, installation and maintenance of any equipment installed herewith, Tenant will comply and, to the extent applicable, the contractors or subcontractors of Tenant will comply with the provisions of Appendix 2, attached hereto, together with such other rules and regulations promulgated from time to time by either Landlord.

### **2.3 LAWS AND REGULATIONS**

Tenant agrees to comply with all applicable laws, ordinances, rules, and regulations of any governmental entity or agency having jurisdiction with respect to the Lease and/or the Building.

Tenant warrants that the equipment installed in conjunction with this Lease will comply with manufacturers' specifications, such specifications to comply with all federal, state and local rules and regulations. Tenant will, at Tenant's sole cost, take all measures necessary to ensure that such equipment is within manufacturers' specifications and that all equipment strictly complies with all laws, rules, regulations, ordinances and codes, whether now or hereafter existing, of all federal, state and local governmental authorities and that the equipment strictly complies with all contractual obligations to which Tenant is bound in connection with such equipment and as applicable to the Solar Equipment or similar facilities.

Tenant will use its best efforts and take all measures necessary to ensure that the Solar Equipment installed by Tenant does not interfere with or disturb the operation of any other equipment or business of Landlord or of any other tenant, or occupant of the Building. In the event of such interference or disturbance to an existing tenant,



occupant, Tenant shall immediately make such necessary adjustment to its equipment to correct such interference or disturbance. In the event Tenant does not make immediate necessary adjustment to its equipment to correct such interference or disturbance, then HOCM may contract for and arrange to have a solar company correct such interference or disturbance. In the event HOCM must complete this, then the cost of such solar company to correct the interference or disturbance may be deducted from any costs due from HOCM to Tenant.

Nothing herein will be deemed to limit Tenant's obligations or either Landlord's rights under Article 1.7.5 above.

## 2.4 BUILDING RULES

Tenant will comply with the rules and regulations of the Building as adopted and altered by either Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so, provided such rules: (i) do not unreasonably and materially interfere with Tenant's conduct of its business; and (ii) do not require payment of additional moneys. All changes to such rules will be sent by the Landlords to Tenant in writing.

## 2.5 ENTRY BY LANDLORDS

Tenant agrees to permit either Landlord or its employees, agents or representatives to inspect any portion of the Solar Equipment installed in or on the Building by Tenant at all reasonable hours (and in emergencies at all times) to inspect the same, to clean or make repairs, alterations or additions to the Equipment Space, Rooftop or to the Building, and Tenant will not be entitled to any abatement or reduction of Lease Fees by reason thereof. Landlord shall request that Tenant supply a representative to facilitate Landlord's inspection, but Landlord shall not be required to delay its inspection in the event that a Tenant representative is not available.

## 2.6 ASSIGNMENT, SUBLETTING AND TRANSFERS BY AGREEMENT

Tenant may assign this Lease or its rights hereunder to (a) any corporation, company or other entity which is controlled or managed by Tenant, (b) any nonprofit entity which has purchased or received a distribution of all or substantially all the assets of Tenant or the Solar Equipment. In the case of any assignment, the assignee will be deemed to have assumed, without releasing Tenant, all obligations under this Lease. Any other assignment by Tenant of this Lease or the rights hereunder will be subject to the prior written consent of both Landlords, which consent will not be unreasonably withheld.

## 2.7 INSURANCE

2.7.1 Insurance Policies. Prior to the commencement of any work, installation, maintenance in, on or about the Building and during the term of this Lease, Tenant will obtain and maintain the following insurance, at its own expense, in amounts not less than those specified below:

- a. Commercial General Liability for bodily injury liability and property damage liability with limits of \$1,000,000 for each occurrence and \$2,000,000 aggregate coverage.

2.7.2 Policy Terms. The above insurances will, without liability on the part of either Landlord for premiums thereof, include the following:

Endorsement as Additional Named Insureds of:

- a. Both Landlords and affiliates as designated from time-to-time by Landlords;
- b. All other indemnity obligations as set forth in this Lease; and

- c. Thirty (30) days prior notice of cancellation to each certificate holder.

The carrying of the insurance described herein will in no way be interpreted as relieving Tenant of any responsibility or liability under this Lease.

2.7.3 Certificates of Insurance. Prior to the commencement of any work in, on or about the Building, Tenant will obtain and file certificates with both Landlords showing existence of such insurance, which insurance will be subject to both Landlords' approval as to the adequacy of protection and compliance with this Lease and the satisfactory character of the insurer. Such insurance will be placed with reputable insurance companies licensed to do business in the State of Washington.

2.7.4 Contractors and Subcontractors. Should Tenant engage a contractor or subcontractor, the same conditions applicable to Tenant under this Lease shall apply to each contractor or subcontractor, including but in no way limited to the indemnity and insurance clauses.

## 2.8 INDEMNITY

Except for the gross negligence, willful misconduct or default under this Lease by either Landlord, its employees or agents, Tenant hereby agrees to protect, defend, and hold harmless each Landlord and its agents and their respective officers, employees, agents, directors, shareholders and assigns, from and against all loss, claims and expense, including without limitation any loss or damage attributable in whole or in part to Tenant or its employees, servants, agents or contractors, because of damage to, loss or destruction of property, including loss of use thereof, and/or because of bodily injury, sickness or disease, or death sustained by any person, including workmen's occupational disease arising directly or indirectly from Tenant's activities under the Lease, arising directly or indirectly from the Solar Equipment, or the use and occupancy by Tenant of the Rooftop or Equipment Space, or any breach of this Lease.

## 2.9 CASUALTY DAMAGE

If the Solar Equipment or any part thereof will be damaged by fire or other casualty, Tenant will give prompt written notice thereof to Landlord City of Olympia. In case the Building will be damaged such that alteration or reconstruction of the Building, in Landlord City of Olympia's sole opinion, is required (whether or not any equipment or property of Tenant will have been damaged by such casualty) or in the event any mortgagee of Landlord, City of Olympia, should require that the insurance proceeds payable as a result of a casualty be applied to the payment of the mortgage debt or in the event of any material uninsured loss to the Building, Landlord City of Olympia, may at its option, terminate this Lease by notifying Tenant in writing of such termination within ninety (90) days after the date of such casualty. If Landlord, City of Olympia, does not elect to terminate this Lease, Landlord, City of Olympia, will commence and proceed with reasonable diligence to restore the Building shell, excluding any of the Solar Equipment (which will be Tenant's sole responsibility to restore at its sole cost and expense) in accordance with the terms of the Lease; except that Landlord, City of Olympia obligation to restore will not require Landlord to spend for such work an amount in excess of the insurance proceeds actually received by Landlord, City of Olympia, as a result of the casualty. When the repairs described in the preceding sentence have been completed by Landlord, City of Olympia, Tenant will then complete the restoration of all improvements in excess of such improvements installed by Landlord, City of Olympia, which are necessary to permit Tenant's resumption of operations pursuant to the Tenant's final working drawings and specifications ("Improvement Restoration"). Construction of the Improvement Restoration will be completed within two (2) months after Landlord, City of Olympia, first notifies Tenant that the improvements to be completed by Landlord have been substantially completed. All cost and expense of completing the Improvements Restoration will be borne by Tenant. Landlord, City of Olympia, will not be liable for any inconvenience or annoyance to Tenant or injury to the business

of Tenant resulting in any way from such damage or the repair thereof except that the Lease Fee will abate from the date of the damage through the period of restoration.

## 2.10 TERMINATION OF GROUND LEASE/TERMINATION OF CITY-HOCM LEASE

If the ground lease between Landlord, City of Olympia, and the Port of Olympia is terminated, then this Lease will terminate as of the date that the ground lease was terminated. If the lease between Landlord, City of Olympia, and Landlord, HOCM, is terminated, then Landlord, HOCM's obligations under this lease to Tenant shall terminate as of the date that the City of Olympia-HOCM lease is terminated.

## 2.11 DAMAGES FROM CERTAIN CAUSES

Notwithstanding any provision herein, neither party will be liable to the other for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, or order of governmental body or authority.

## 2.12 EVENTS OF DEFAULT/REMEDIES

2.12.1 The following events will be deemed to be events of default by the Landlords and/or Tenant under this Lease: (i) Landlords or Tenant fails to pay any Lease Fees or other sum of money, including the payment for electricity required by Article 1.7.3, when due hereunder and such failure continues for a period of ten (10) business days after receipt of written notice from the other party of such failure; (ii) Tenant or Landlords fail to comply with its respective obligations under any provision of this Lease, and such failure continues for a period of thirty (30) days after written notice of such default is delivered to the defaulting party, provided, however, if such condition cannot reasonably be cured within such thirty (30) day period, it instead will be an event of default if the defaulting party fails to commence to cure such condition within such thirty (30) day period and/or thereafter fails to prosecute such action diligently and continuously to completion within ninety (90) days of the date of the notice of default; (iii) the Lease hereunder granted will be taken on execution or other process of law in any action against Tenant; (iv) Tenant ceases to do business or abandon any rights granted under the Lease; (v) Tenant becomes insolvent or unable to pay its debts as they become due, or Tenant notifies Landlord that it anticipates either condition; (vi) Tenant takes any action to, or notifies Landlords that Tenant intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; (vii) a receiver or trustee will be appointed for Tenant's Lease interest in this Lease or for all or a substantial part of the assets of Tenant; or (viii) Landlords substantially interferes or allows another to substantially interfere with the sunlight reaching the Solar Equipment.

2.12.2 Upon the occurrence of any event or events of default by Tenant, whether enumerated in Paragraph 2.12.1 or not, each Landlord will have the option to pursue any remedies available to it at law or in equity without any additional notices to Tenant or demand for possession. Landlord, City of Olympia's remedies will include but not be limited to the following: (i) terminate this Lease and take possession of the Solar Equipment; (ii) terminate electrical power to the Solar Equipment; and (iii) exercise all other remedies available to Landlord, City of Olympia, Landlord, HOCM's remedies will include but not be limited to the following: (i) terminate this Lease; (ii) terminate electrical power or its use from the Solar Equipment; and (iii) exercise all other remedies available to Landlord. Landlords shall have all other remedies at law or in equity, including, without limitation, injunctive relief of all varieties, and termination rights. Upon the occurrence of any event or events of default by Landlords, whether enumerated in Paragraph 2.12.1 or not, Tenant may exercise all remedies available to it at law or in equity, including, without limitation, injunctive relief of all varieties, and termination rights.

2.12.3 Each party will be in default hereunder in the event the defaulting party has not begun and pursued with reasonable diligence the cure of any failure to comply with its respective obligations under any provision of this Lease within thirty (30) days of the receipt by the other of written notice of the alleged failure to perform. In no event will either party have the right to terminate or rescind this Lease as a result of the alleged default as to any covenant or agreement contained in this Lease.

2.12.4 Notwithstanding the provisions of Paragraph 2.12.2 above, an event of default by Tenant which has resulted from mandated compliance by Tenant with applicable laws, rules or regulations of any federal, state or other local governmental authority will be waived by both Landlords; however Tenant agrees to use all reasonable efforts to comply with the terms hereof consistent with such laws, rules or regulations.

### **III. MISCELLANEOUS**

#### **3.1 ATTORNEYS' FEES**

In the event of a dispute hereunder, each party will pay its own attorneys' fees and costs.

#### **3.2 NO IMPLIED WAIVER**

The failure of either party to insist at any time upon the strict performance of any covenant or agreement herein or to exercise any option, right, power or remedy contained in this Lease will not be construed as a waiver or a relinquishment thereof for the future.

#### **3.3 PERSONAL LIABILITY**

In no event will either party be liable to the other for (a) any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Building or of any third parties or (b) any consequential, special or incidental damages.

#### **3.4 NOTICE**

All notices, demands, requests, or other communications which are required to be given, served, or sent by one party to the other pursuant to this Lease will be in writing, and will be mailed, postage pre-paid, by registered or certified mail, or by a reliable overnight courier service with delivery verification, addressed as follows:

If to Landlord City:     Director of Public Works  
                                    City of Olympia  
                                    601 4<sup>th</sup> Ave E  
                                    P.O. Box 1967  
                                    Olympia, WA 98507-1967

and

If to Landlord HOCM:     Patty Belmonte, Executive Director  
                                    Hands on Children's Museum  
                                    414 Jefferson St NE  
                                    Olympia, WA 98501

and

If to Tenant Olympia Community Solar:  
Mason Rolph  
Olympia Community Solar  
112 4<sup>th</sup> Avenue E  
Olympia, WA 98501

Each notice, demand, request, or communication which is mailed or delivered in the manner described above will be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee first named above for each party (with the return receipt of verification of delivery being deemed conclusive evidence of such notice), or at such time as delivery is refused by addressee upon presentation.

Either party may designate by notice in writing a new address and/or individual to which any notice, demand, request or communication made thereafter will be so given, served or sent.

### 3.5 SEVERABILITY

If any term or provision of this Lease, or the application thereof to any person or circumstance will, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Lease will be valid and enforced to the fullest extent permitted by law.

### 3.6 RECORDATION

Tenant will have the right to record a Memorandum of Lease for purposes of memorializing its rights to the Rooftop; provided Tenant will be responsible for filing and recording a termination of the memorandum within thirty (30) days prior to the expiration of this Lease.

### 3.7 GOVERNING LAW

This Lease and the rights and obligations of the parties hereto will be interpreted, construed, and enforced in accordance with the laws of the State of Washington.

### 3.8 TIME OF PERFORMANCE

Except as expressly otherwise herein provided, with respect to all required acts of Tenant, time is of the essence of this Lease.

### 3.9 TRANSFERS BY LANDLORDS

Either Landlord will have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in the Building, and in such event and upon such transfer the transferring Landlord will be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of the transferring Landlord for the performance of such obligations, provided, however, such successor in interest expressly accepts such obligations in writing.

### 3.10 TAXES

Tenant will be responsible for collecting and remitting all applicable federal, state and local taxes attributable to the ownership and operation of any equipment installed pursuant to this Lease, provided, however,

that Tenant will not be responsible for any taxes imposed on the income of the Landlords derived from the Building or otherwise.

### 3.11 REGULATORY AUTHORITY

Tenant will use reasonable business efforts to secure any permits, Leases, regulatory approvals and authorizations from federal, state and local governments ("Permits") required currently or in the future for the provision of any services and exercise of any of its rights under the Lease, and Tenant's right and obligations hereunder will be subject to receipt and maintenance of all necessary Permits. Tenant will promptly inform Landlords of (i) any legal or regulatory development of which Tenant becomes aware that would prohibit or render all or any portion of this Lease Agreement commercially unfeasible or (ii) its revocation of or failure to obtain any Permits.

### 3.12 INDEPENDENT CONTRACTOR

Tenant will at all times act in its own capacity and right as an independent contractor. Tenant will have no right to make purchases, or to obligate the Landlords to expend any funds or to perform any obligations other than as provided in this Lease or as may be authorized in writing by Landlords. Tenant agrees that it and any of its employees or agents will at all times present and represent itself or themselves as representatives of Tenant.

### 3.13 FORCE MAJEURE

Except with respect to Tenant's payment obligations under this Lease, if the performance by a party to this Lease of any nonmonetary obligation hereunder is interfered with by reason of any circumstances without the fault or negligence, or beyond the reasonable control, of either party, including fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies, any law, order, natural disaster, regulation, ordinance, requirement, acts of, or failures to act by, any government or any legal body or representative of any such government, labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts, embargo, delay of a common carrier, or any act of any tenant or tenant's agents, or any other cause beyond such party's control, then the party affected will be excused from such performance on a day-to-day basis to the extent of such interference (and the other party will likewise be excused from performance of its obligations on a day-to-day basis to the extent such other party's obligations relate to the performance so interfered with), provided that the affected party will use reasonable efforts to remove such causes of non-performance.

### 3.14 OWNERSHIP OF EQUIPMENT

Unless acquired as provided in this Lease, the Landlords will have no ownership or other interest in any Solar Equipment installed on the Building. The manner of operation of the Solar Equipment, including but not limited to decisions on when to conduct maintenance, is within the sole discretion of Tenant, subject to either Landlord's reasonable rules and regulations as it relates to access to the Rooftop and Equipment Space. Tenant will, in good faith, work to coordinate all construction and maintenance (emergency repairs excepted) of the Solar Equipment with both Landlords so as to not unreasonably interfere with either Landlord's use of the Property.

### 3.15 ENTIRE AGREEMENT

This Lease embodies the entire agreement between the parties hereto with relation to the transaction contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties hereto with regard thereto other than those specifically set forth herein.

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

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**TENANT - OLYMPIA COMMUNITY SOLAR, a Washington non-profit corporation**

By: Mason Rolph  
Print Name: Mason Rolph  
Title: President  
Date: Aug. 12<sup>th</sup> 2019

STATE OF WASHINGTON    )  
  ) ss.  
COUNTY OF THURSTON    )

On the 12<sup>th</sup> day of AUGUST 2019, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me Mason Rolph, to me known to be the President of Olympia Community Solar, a Washington non-profit corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and on oath states that he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

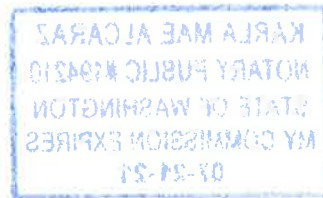


Karla Mae Alcaraz  
Signature  
Print Name: Karla Mae Alcaraz  
NOTARY PUBLIC in and for the State of  
Washington, residing at Tumwater, WA  
My commission expires 07-21-2021

**Appendix 1**

**SOLAR EQUIPMENT**

**TO BE SUPPLIED BY OLYMPIA COMMUNITY SOLAR**



Appendix 2

LANDLORD'S RULES

**TO BE SUPPLIED BY THE HANDS ON CHILDREN'S MUSEUM**

