

## **SOLAR LEASE AGREEMENT**

This Solar Lease Agreement (this "Lease") is entered into on the Effective Date, by and between the Issaquah School District No. 411, a political subdivision of the State of Washington ("Landlord"), and Puget Sound Energy, Inc., a Washington corporation ("Tenant"). Landlord and Tenant may be referred to individually as a "Party" and collectively, the "Parties."

### **RECITALS**

**A.** Landlord owns the building known as the Pine Lake Middle School with approximately **44,626 square feet** of rooftop area (the "Building") on real property (the "Land") legally described on Exhibit "A" located generally at **3095 Issaquah Pine Lake Road, Sammamish, WA 98075**; and

**B.** Landlord and Tenant desire to develop a mutually beneficial agreement to locate a **216** KW (DC) community solar project ("Project") on the Property.

### **AGREEMENT**

In consideration of the foregoing and the mutual covenants and agreements set forth below, Tenant and Landlord agree as follows:

#### **1. Premises.**

1.1 The Premises. Landlord leases to Tenant for the Term a certain portion of the rooftop area and side of the Building as depicted in Exhibit "A-1" (the "Lease Area"), for the sole and exclusive purpose of designing, constructing, installing, owning, operating, maintaining, repairing, replacing and removing the System (as defined below). In addition to the foregoing, Landlord shall grant to Tenant a non-exclusive easement or easements on, over, across, under and through the Land as necessary to allow Tenant to install and maintain its cables and related equipment for the Project and any other utility easements reasonably required in connection with the Permitted Uses (defined below) (the "Easement Areas"). The Parties shall execute a separate stand-alone non-exclusive easement or easements reflecting the Easement Areas and otherwise being satisfactory to Tenant (the "Easements"). All Easements shall terminate automatically upon expiration or earlier termination of this Lease and Tenant hereby agrees to execute a release of easement in recordable form for the Easements upon expiration or earlier termination of this Lease. The Lease Area and Easement Areas are referred to collectively, as the "Premises."

1.2 Right of Access. Subject to Notice requirements in Section 5.3 herein, Landlord further grants to Tenant during the Term and for such additional time as required to remove the System and surrender the Premises in the condition required under Section 16:

(a) A non-exclusive right of access to the Lease Area across or through the Land which is necessary or convenient to gain access to the System;

(b) The exclusive access to and use of the Lease Area to develop, design, install and operate the System within the Lease Area, and the exclusive right to maintain, repair and replace the System throughout the Term;

(c) A non-exclusive right of access for the installation, operation and maintenance of electric lines necessary for the Project; and

(d) The exclusive right to receive sunlight ("Insolation") at the Lease Area (the "Solar Easement") during every hour of each day that sunlight could be received by the System. This grant of Solar Easement shall run with the terms of this Lease and is not terminable by Landlord or its successor-in-interest so long as this Lease is in effect. This Solar Easement shall terminate automatically upon expiration or earlier termination of this Lease and Tenant hereby agrees to execute a release of such easement in recordable form to the extent any form of Solar Easement is recorded.

1.3 Condition of Premises. Landlord represents to Tenant that, to the best of Landlord's knowledge, there are no covenants, restrictions, rights of way, easements or other encumbrances on the Premises that will prevent the Tenant's right of access and use of the Premises for the purposes described herein. In the event that there exist other uses or covenants, conditions or restrictions affecting the Premises that prevent Tenant from its right of access and use of the Premises, Tenant may terminate this Lease in accordance with the Early Termination provisions of Section 3.3. Notwithstanding the above, the Parties agree that, except as otherwise provided herein, Tenant shall not be liable for any conditions at, under, from or to the Premises arising from or related to acts or omissions occurring prior to the Commencement Date, including conditions related to any Hazardous Materials and Landlord releases Tenant from any and all claims, damages, and liabilities regarding the same.

1.4 Utilities. Tenant shall be solely responsible for providing, and paying for, all electrical and other utilities of sufficient capacity to serve the Project, which shall be installed in accordance with the reasonable requirements of Landlord and in a manner that avoids unnecessary interference to other activities on the Premises in the reasonable judgment of Landlord.

1.5 Remaining Property. The portions of the Land and Building, excepting the Premises, are referred to as the "Remaining Property."

**2. Permitted Uses**. Tenant shall use the Premises solely for the purpose of designing, constructing, installing, owning, operating, maintaining, repairing, replacing and removing a solar photovoltaic system with a nameplate capacity of **216** KW (DC) on the Lease Area, together with any and all solar arrays and all necessary associated inverters, wiring, metering, and other equipment and appurtenances related thereto (the "System") as Tenant deems necessary for the design, installation, operation and maintenance of the System or as required by any county, state or federal agency or department for the operation of a photovoltaic generation system (the "Permitted Uses"). The Permitted Uses shall also include the right to test, survey and check title on the Land and perform any other acts necessary to the successful and secure operation of the System, as determined by Tenant in its sole discretion. Tenant's use of the Premises shall at all times conform to all applicable federal, state and local laws, regulations, bylaws, codes and other legal requirements (the "Governmental Requirements"). Absent written approval by the Landlord, Tenant shall not use the Premises for any use other than as set forth herein.

### **3. Term.**

3.1 Initial Term. The initial term of this Lease ("Initial Term") shall commence on the Effective Date (the "Commencement Date") and, unless terminated pursuant to the Early Termination provisions of Section 3.3 or as otherwise allowed by this Lease, shall terminate on the last day of the calendar month after the tenth (10<sup>th</sup>) annual anniversary of the Commencement Date (the "Termination Date").

3.2 Extension Term. If not otherwise in Default under this Lease, Tenant shall have the right, to be exercised at least sixty (60) days prior to the expiration of the then current term, to extend the Initial Term of this Lease for three (3) additional five (5) year periods (each, an "Extension Term") on

the same terms and conditions set forth herein. The Initial Term, and any Extension Term, if exercised, shall be referred to, together, as the "Term." The term "Lease Year" means a period of one (1) year commencing on the Commencement Date and ending on each subsequent annual anniversary date thereof.

### 3.3 Early Termination.

(a) The Parties acknowledge and agree that Tenant's obligations under this Lease are contingent on Tenant obtaining any and all required permits, including, without limitation, any federal, state, or local permits or approvals necessary to construct and operate the System on the Premises (all such permits and approvals being referred to as the "Governmental Approvals"). Landlord agrees to cooperate with, and assist, Tenant as may be reasonably necessary to obtain the Governmental Approvals. If, before the Operation Date, Tenant is unable to obtain the Governmental Approvals despite its commercially reasonable efforts to do so, or reasonably determines that the Premises, System, or Permitted Uses are not in conformance with any Governmental Requirement, or reasonably determines that any Governmental Requirement will cause the Project to be no longer economically viable, Tenant may terminate this Lease, without recourse to the Parties, by delivering written notice to Landlord, in which event this Lease shall terminate and be null and void, except for those provisions that expressly survive the expiration or earlier termination of this Lease. The "Operation Date" is defined as the date on which Tenant first receives power produced by the System, excluding electric energy delivered to the electric grid in connection with testing, start-up or commissioning of the System.

(b) If Tenant determines at any time during the Term that the number of customers subscribing to the Project is insufficient such that the Project is no longer viable, Tenant may terminate this Lease, without recourse to the Parties, by delivering written notice to Landlord, in which event this Lease shall terminate and be null and void, except for those provisions that expressly survive the expiration or earlier termination of this Lease.

(c) Landlord may terminate Tenant's interest under the Lease, if the Premises are needed for school purposes pursuant to RCW 28A.335.040 or other applicable Governmental Regulation or for any other reason, by written notice to Tenant and the Lease shall terminate on the date specified in the notice of termination, provided that such termination right is conditioned on Landlord paying for: (i) all costs associated with the removal of the System; and (ii) the undepreciated cost of the System. Following the initial installation of the System, and every five (5) years thereafter, Tenant shall deliver to Landlord a schedule showing the undepreciated cost of the System for each of the next five (5) years, an example of which is attached as **Exhibit "B"**. Landlord shall countersign and return the schedule to PSE within ten (10) days of receipt. Following removal of the System, the Parties shall have no further obligations to each other, except for those obligations that expressly survive the expiration or earlier termination of this Lease.

3.4 Holdover. If Tenant or any party claiming by, through or under Tenant, retains possession of the Premises or any part thereof after the Termination Date or earlier termination of this Lease, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes (i) a month-to-month tenancy, upon the terms and conditions set forth in this Lease, or (ii) the creation of a tenancy-at-sufferance, in any case upon the terms and conditions set forth in this Lease. The Base Rent due during any holdover period shall be the Base Rent payable in the last Lease Year of the Term, prorated to reflect only the number of days Tenant continues to holdover at the Premises. The provisions of this Section 3.4 shall not constitute a waiver by Landlord of any right of re-entry as set forth in this Lease; nor shall receipt of any Rent or any other act in apparent affirmance of the tenancy operate as a waiver of Landlord's right to terminate this Lease for a breach of any of the terms, covenants, or obligations herein on Tenant's part to be performed.

#### 4. Rent.

##### 4.1 Base Rent and Taxes.

(a) Beginning on the Commencement Date, Tenant shall pay Landlord without notice or demand therefore and without any deduction or set-off whatsoever Base Rent (as defined below) in yearly installments. The Base Rent payment will be due and payable on the Commencement Date, and subsequent Base Rent payments will be due and payable on each anniversary of the Commencement Date. Tenant shall pay a base rent for each Lease Year of the Term in the amount of **FOUR THOUSAND FOUR HUNDRED SIXTY TWO AND 62/100 (\$4,462.60)** (the "Base Rent"). Base Rent for the first Lease Year shall be due and payable on the Commencement Date. Base Rent for each subsequent Lease Year will be due and payable on each anniversary of the Commencement Date.

(b) The Base Rent shall be adjusted on each anniversary of the Commencement Date by multiplying the Base Rent payable immediately before adjustment by 3% and adding the resulting amount to the Base Rent payable immediately before such adjustment. See **Exhibit "C"** attached hereto for a complete Schedule of Rent under the Lease.

(c) The Parties acknowledge that Landlord is exempt from the assessment of, and obligation to pay real property taxes, ad valorem levies or special assessments ("Property Taxes") for property owned by such municipal corporation. To the extent that the installation of the System on the Premises results in any Property Taxes being assessed against the Premises or the System, or the requirement to make payments in lieu of real property taxes to one or more taxing jurisdictions or other authority in accordance with a payment in lieu of taxes agreement, Landlord shall be solely responsible for the payment of all such Property Taxes; provided that, Tenant's Base Rent shall be adjusted automatically to reflect the amount of any Property Taxes. Landlord's failure to pay any such Property Taxes shall be a breach of this Lease, and shall entitle the Tenant to exercise all rights and remedies provided to it under this Lease and applicable laws. Upon a failure of Landlord to pay any Property Taxes, Tenant shall also have the right, but not the obligation, to pay such Property Taxes, and Landlord shall indemnify and reimburse Tenant for the cost thereof within thirty (30) days of such payment.

##### 4.2 Intentionally deleted.

4.3 Governmental Charges. Tenant shall pay or cause to be paid all of the following, if applicable: utilities of every kind or nature provided to the Lease Area, or attributable to Tenant's use of the Easement Areas, along with all charges, excises, levies, license and permit fees and all other governmental charges of any kind and nature which during the Term may be assessed, levied, imposed upon or become due with respect to, or become a lien on, the Premises or the leasehold, or any part thereof, or any appurtenance thereto, that are a result of Tenant's installation or operation of the System on the Premises. Landlord shall cause to be paid all charges, excises, levies, license and permit fees and all other governmental charges of any kind and nature which during the Term may be assessed, levied, imposed upon or become due with respect to, or become a lien on, the Premises or the leasehold, or any part thereof, or any appurtenance thereto, except for those charges that are attributed to Tenant's installation or operation of the System.

4.4 General Rent Provisions. All Base Rent and other payments required to be made by Tenant to Landlord under this Lease may be paid by check made payable to the Issaquah School District No. 411 and delivered to Landlord at the address set forth below, or at such other place as Landlord may from time to time direct by written notice to Tenant. Alternatively, Base Rent and other payments required to be made to Landlord under this Lease may be paid by electronic funds transfer using banking information (and other information reasonably required for Tenant to accomplish payment) provided by Landlord to

Tenant within 10 business days after Tenant's request for the same.

4.5 Interest. All payments becoming due under this Lease and not paid within ten (10) days of the date due shall bear interest from the applicable due date until received by Landlord at an annual rate equal to five percent (5%).

## **5. System Construction, Installation and Operation.**

5.1 Installation Work. Landlord consents to the construction of the System by Tenant on the Premises ("Installation Work") in accordance with this Lease, including without limitation, the installation of solar panels, mounting substrates or supports, wiring, connections, ducts, conduits, power inverters, service equipment, metering equipment, utility interconnections and distribution systems, and electrical equipment. Landlord acknowledges that the installation of all or a portion of the System will require physically mounting and adhering the System to the rooftop area of the Building and consents to such mounting or adhering, as applicable, consistent with all applicable Governmental Requirements and Approvals. Landlord has reviewed and approved as of July 20, 2021 Tenant's plans for the design and installation of the System; any changes or modifications to the plans approved on July 20, 2021 will require Landlord's written approval. Notwithstanding the foregoing, Landlord's approval shall not in any manner be deemed to constitute Landlord's warranty, endorsement or other certification of Tenant's Installation Work and shall not in any case be deemed to waive any of Landlord's rights or remedies contained in this Lease. Without limiting the foregoing, Tenant shall ensure that all Installation Work is done in a manner that does not void any existing warranties on the Building or Premises, including, but not limited to, any existing warranty on the roof of the Building.

5.2 Appurtenant Rights. Tenant shall also have the right from time to time during the Term to: (a) maintain, clean, repair, replace and dispose of part or all of the System; to add to or remove (if this Lease has terminated or as otherwise allowed by this Lease) the System or any part thereof; and (c) perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Tenant, to use the Premises for the Permitted Uses or carry out the activities set forth in this Section 5.

5.3 Access to and Use of Leased Premises. Tenant shall inform Landlord of Tenant's construction schedule at least ten (10) business days prior to commencement of Installation Work. Tenant shall have access to the Premises from 7:00 a.m. to 7:00 p.m., seven (7) days a week for the purpose of performing the Installation Work consistent with the construction schedule. Tenant shall have access the Premises for the purpose of providing utilities to the Premises, and using the Premises for the Permitted Uses and uses incidental thereto from 7:00 a.m. to 7:00 p.m. from Monday through Friday, provided that Tenant must provide Landlord with two (2) business days prior written notice of any entry, unless such entry is due to an emergency, in which case Tenant will provide Landlord with a written explanation of the nature of the emergency within twenty-four (24) hours of such emergency entry. To the extent requested by Tenant and reasonably necessary for the performance of the Installation Work, Landlord shall provide necessary space for the temporary storage of parts and supplies on the Premises or portions of the Land adjacent thereto, as reasonably agreed to by the Parties. However, no permanent support or storage structures shall be erected on the Remaining Property or unreasonably interfere with Landlord's use of or operations of such Remaining Property. Tenant shall perform the Installation Work and ongoing operations and maintenance in a manner that minimizes inconvenience to Landlord's use of the Remaining Property to the extent commercially practicable. Tenant shall coordinate with Landlord and take due care to not interfere or interrupt school site operations including, without limitation, arrivals and departures of students and staff, whether by school bus or private vehicle.

5.4 Site Restoration. Tenant may make such modifications to the Premises as reasonably required or convenient to perform the Installation Work or ongoing operations and maintenance

of the System including without limitation running wires and conduits from the System to the electrical panels and other areas on the Premises, provided that Tenant shall maintain the Premises in good condition and repair and shall restore the Premises to substantially the same condition as existed immediately prior to such modifications (other than the improvements and modifications made in connection with the System).

5.5 Construction Standards. Any and all improvements to be constructed, erected or maintained on or at the Premises shall be constructed, erected and maintained in a good and workmanlike manner, and in accordance with Governmental Approvals. Tenant's construction, operation, use and maintenance of the System and any and all other improvements on or at the Premises shall at all times comply with all applicable Governmental Requirements. Tenant will be responsible (subject to Landlord's cooperation and assistance as may be reasonably necessary) for obtaining and maintaining, at its sole cost and expense, all Governmental Approvals for the construction of the System and any and all other improvements on or at the Premises.

5.6 Construction Costs. Tenant will pay all costs and expenses incurred in connection with the construction, maintenance and operation of the System and any and all related improvements at the Premises, including utility connections and the cost of electricity and other utilities the Tenant consumes in its construction, maintenance and operational activities at the rate charged by the servicing utility company, for which Tenant will make payments directly to such company. Tenant shall repair, at its sole cost and expense, any damage caused to the Land and Building as a result of any act or omission of Tenant or its employees, agents, contractors, or invitees.

5.7 Mechanics Liens. Tenant shall use commercially reasonable efforts to not permit any mechanics' liens, or similar liens, to remain upon the Premises for labor and material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed at the direction of Tenant, and shall cause any such lien to be released of record without cost to the Landlord within thirty (30) days after Tenant receives notice of filing of same. In connection with the foregoing, Tenant agrees to indemnify, save, defend, and hold harmless the Landlord against, of and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting therefrom.

5.8 Insurance for Tenant's Work. During the performance of the Installation Work or other work done on or to the Premises, Tenant shall have and maintain in force public liability and property insurance, builder's risk insurance, and worker's compensation insurance affording applicable statutory coverage and containing statutory limits, all in compliance with the provisions of Section 12.

5.9 Removal. Tenant shall be responsible for removal of the System and other improvements made to or structures placed on the Premises by or on behalf of Tenant. Notwithstanding the foregoing, Landlord and Tenant shall complete a walk-through of the Premises before Tenant's surrender on the Termination Date to determine whether Landlord desires to preserve and keep any improvements or structures made to or placed on the Premises and to waive Tenant's obligation to remove such improvement or improvements. In the event Landlord elects to keep any improvements associated with the System, Landlord shall request from PSE an accounting of the costs for the purchase of the identified improvements it wishes to keep and shall thereafter determine, in its sole discretion, whether to pay for and keep the improvements.

5.10 Safety. During construction of the System or any parts thereof or other improvements to the Premises, Tenant shall implement commercially reasonable safety measures to maintain the safety of Tenant's personnel and contractors on the Premises, Landlord's personnel on the Remaining Property, adjacent property owners, and the general public.

5.11 Criminal Records Check. Tenant and any of Tenant's agents, contractors, subcontractors, or employees who will have regularly scheduled unsupervised access to children must pass a criminal background check through the Washington State Patrol criminal investigation system under RCW 43.43.830-43.43.834, 10.97.030 and 10.97.050, and through the Federal Bureau of Investigation. Tenant shall pay for the requirements set forth in this paragraph.

5.12 Crimes Against Children. Pursuant to RCW 28A.400.330, Tenant is prohibited from assigning any person to perform any work on the Premises where there may be contact with children if that person has pled guilty to or been convicted of any felony specified in RCW 28A.400.322. Failure to comply with this section shall be grounds for Landlord immediately terminating this Lease.

5.13 Use of Tobacco Products Prohibited. Tenant shall be required at all times to ensure that Tenant and any party acting by or through Tenant complies with the prohibition on the use of all tobacco products on public school property consistent with RCW 28A.210.310.

## **6. System and Output Ownership.**

6.1 Ownership of System. Landlord acknowledges and agrees that Tenant is the exclusive owner and operator of the System. Further, subject to Sections 5.9 and 16, Landlord acknowledges and agrees that all alterations, additions, improvements, installations or equipment used in connection with the installation, operation, maintenance, and repair of the System or comprising the System is, and shall remain, the personal property of Tenant and shall not become fixtures, notwithstanding the manner in which such System is or may be affixed to the Building and neither Landlord nor any affiliate, lender or successor in interest of Landlord shall have any right, title or interest in the System or any component thereof, notwithstanding that the System may be physically mounted or adhered to the Premises or structures, buildings and fixtures on the Premises. Landlord shall have no development or other interest in the System or other equipment or personal property of Tenant installed on the Premises, and Tenant may remove all or any portion of the System at any time and from time to time as Tenant may require.

6.2 Ownership of Output. Landlord acknowledges that Tenant is the exclusive owner of electric energy generated by the System and owner of all environmental and tax attributes, credits and incentives attributable to the System.

## **7. Representations and Warranties, Covenants of Landlord.**

7.1 Authorization; Enforceability. The execution and delivery by Landlord of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, council, body or official, unless expressly stated herein, and do not contravene any provision of, or constitute a default under, any indenture, mortgage or other material agreement binding on Landlord or any valid order of any court, or regulatory agency or other body having authority to which Landlord is subject. This Lease constitutes a legal and valid obligation of Landlord, enforceable against Landlord in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

7.2 Landlord's Title to Leased Premises. Landlord represents that it owns fee simple title to the Land and Building and shall not sell, assign or otherwise alienate or encumber the Premises unless Landlord shall have given Tenant at least ninety (90) days' prior written notice thereof, which notice shall identify the transferee, the Premises to be so transferred and the proposed date of transfer. Landlord

agrees that this Lease, Tenant's easement rights in the Easement Areas and the Solar Easement shall run with the Premises and survive any transfer of any of the Premises. Further, Landlord agrees that it shall cause any purchaser, tenant, assignee, mortgagee, pledgee or party to whom a lien has been granted (each, a "Transferee") to execute and deliver to Tenant a document pursuant to which such Transferee acknowledges and consents to Tenant's rights in the Premises as set forth herein including without limitation an acknowledgement by the Transferee that it has no interest in the System and shall not gain any interest in the System by virtue of Landlord's transfer.

7.3 No Interference with and Protection of System. Landlord will not conduct activities on, in or about the Premises that have a reasonable likelihood of causing damage to, or impairment of the System, or otherwise adversely affecting the System. Landlord covenants that it will cause any third party who now has or may in the future obtain an interest in the Premises including any lenders to Landlord, to execute and deliver a Subordination, Non-Disturbance, and Attornment Agreement (an "SNDA") with Tenant, providing that each such lien or interest is subordinate to this Lease, does not and shall not encumber the System or other interests of Tenant in the Premises under this Lease or any amendments thereto and extensions thereof, with the effect that in the event of any foreclosure, trustee's sale or conveyance in lieu of foreclosure or trustee's sale of such mortgagee's lien, (a) Tenant shall not be named as a defendant therein unless required to be named by applicable law, (b) Tenant's rights and interests under this Lease shall not be affected or impaired thereby, (c) this Lease shall continue in effect during the Term, and (d) Tenant shall recognize any Transferee by any such process as landlord hereunder so long as the Transferee continues to hold such title.

7.4 Insolation. Without any express or implied duty to investigate, and with Tenant's acknowledgement that it is taking the Premises "as-is" and with all obligations to do its own feasibility review, Landlord acknowledges and agrees that the Solar Easement granted pursuant to this Lease is essential to the value of the interest granted herein and is a material inducement to Tenant in entering into this Lease. Accordingly, Landlord shall, to the extent that it has the authority to do so, not permit any interference with sunlight received at the Lease Area. Without limiting the foregoing, with respect to the Premises and the Remaining Property, Landlord shall not (a) construct or permit to be constructed any structure on the Premises or the Remaining Property that could adversely affect Insolation levels or place or permit to be placed any object on the Premises or the Remaining Property that could adversely affect Insolation levels, (b) permit the growth of vegetation or foliage on the Remaining Property that could adversely affect Insolation levels, or (c) emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air borne impediments to Insolation. If Landlord becomes aware of any potential development or other activity on adjacent or nearby properties that has a reasonable likelihood of diminishing the Insolation to the Lease Area, Landlord shall cooperate with Tenant's efforts to prevent interference with Insolation at the Lease Area including without limitation efforts to obtain, at Tenant's sole expense, solar easement agreements from adjacent property owners.

7.5 Leased Premises Conditions. Landlord represents and warrants to Tenant that Landlord is unaware of any site conditions, restrictions, title defects, rights of way, easements or other encumbrances on the Premises, or construction requirements or restrictions associated with any Governmental Requirements that would (i) materially increase the cost of installing the System at the planned locations on the Lease Area or would materially increase the cost of maintaining the System at the Lease Area or (ii) adversely affect the ability of the System as designed to produce electricity once installed or (iii) adversely affect Tenant's ability to use, operate, and maintain the System. Tenant acknowledges that Landlord is not in the business of either constructing or using solar photovoltaic systems, that Landlord has acquired no specialized knowledge concerning such systems, and that Landlord has not and is not required to undertake any investigation to determine if the Lease Area is suitable for Tenant's purposes. Landlord represents and warrants that, as of the Commencement Date there are no Environmental Claims (as defined in Section 10.3 below) in connection with the Premises and that there have been no Environmental Claims

in connection with the Premises that have not been fully remediated with regulatory closure obtained (if applicable).

## **8. Representations and Warranties, Covenants of Tenant.**

8.1 Authorization; Enforceability. The execution and delivery by Tenant of, and the performance of its obligations under, this Lease have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and do not contravene any provision of, or constitute a default under, any indenture, mortgage or other material agreement binding on Tenant or any valid order of any court, or regulatory agency or other body having authority to which Tenant is subject. This Lease constitutes a legal and valid obligation of Tenant, enforceable against Tenant in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

## **9. Maintenance.**

9.1 Maintenance of System. Tenant shall maintain and repair the System in good order and condition, reasonable wear and tear and damage by casualty excepted, and shall maintain the System and related equipment so as to keep it safe, sanitary, and in good working order and condition, all at its sole cost and expense.

9.2 Maintenance of Building. Landlord shall keep and maintain the Building, including but not limited to the rooftop area, in good and safe order and condition. In the event Landlord needs to perform any repair and replacement of the rooftop area on the Building during the Term, Tenant agrees to reasonably coordinate with Landlord to accommodate such repair and replacement activities including the removal and re-installation of elements of the System located on the Building (e.g., photovoltaic solar panels) at Tenant's expense. Notwithstanding the foregoing, Tenant shall not be required to remove and re-install the System elements to accommodate a Landlord roof repair or replacement event more than one time during the Term. In the event the rooftop area requires repair or replacement more than one time during the Term, Tenant shall have the option, in its sole discretion, to terminate the Lease by giving Landlord at least thirty (30) days' advance notice.

## **10. Hazardous Materials.**

10.1 Hazardous Materials. "Hazardous Materials" are any hazardous, toxic or radioactive materials, substances or waste, as defined under federal or state laws or regulations regulating or addressing the generation, storage, use, disposal, release, investigation, cleanup, or transportation of such materials (collectively, the "Environmental Laws").

10.2 Hazardous Activities. Tenant agrees that it will not use, generate, store or dispose of any Hazardous Materials on, under, about or within the Premises in violation of any of the Environmental Laws. Except for small quantities used in the ordinary course of the Permitted Uses, Tenant shall make all reasonable efforts to inform Landlord in writing of any Hazardous Materials Tenant brings or uses upon the Premises, and shall provide updates if any of the information changes during the Term of this Lease. Landlord agrees that it will not, and will not allow others under its control to use, generate, store or dispose of any Hazardous Materials on, under, about or within the Premises in violation of any Environmental Law.

10.3 Tenant Indemnity. Tenant agrees to defend, hold harmless and indemnify Landlord from and to assume all claims, suits, penalties, obligations, damages, losses, liabilities, payments, costs and expenses arising out of or related to any spill, discharge, leakage, release, contamination or

storage of any Hazardous Materials, regardless of whether such an event or condition required remediation, corrective or other action, in order to comply with any Environmental Laws (collectively, “Environmental Claims”) that are related to the failure by Tenant or its agents, employees, contractors, subcontractors, licensees or invitees (collectively, with Tenant, the “Tenant Parties”) to comply with any of the Environmental Laws or Governmental Approvals from and after the Commencement Date.

10.4 Exception. Notwithstanding the provisions of Section 10.3, Tenant shall have no obligation to defend, indemnify or save harmless Landlord for, from and against any and all Environmental Claims (including without limitation attorney and consultant fees and expenses, investigation and remedial action costs, transportation and disposal costs and those costs, expenses, penalties and fines incurred pursuant to any Environmental Laws or regulatory directive or order) arising out of or related to (i) conditions caused or existing (including the presence of Hazardous Materials) on, under, from, or to the Land before the Commencement Date, whenever known or discovered, (ii) the failure by Landlord or its agents, employees, contractors, subcontractors, licensees or invitees (collectively, with Landlord, the “Landlord Parties”) to comply with any of the Environmental Laws, (iii) Hazardous Materials that are present on, under, from or to the Land before the Commencement Date, except to the extent Tenant exacerbated the same, and (iv) Hazardous Materials present on, under, from or to the Land before or after the Commencement Date if caused by Landlord Parties.

10.5 Landlord Indemnity. Landlord agrees to defend, hold harmless and indemnify Tenant Parties for, from and against any and all Environmental Claims (including without limitation reasonable attorney and consultant fees and expenses, investigation and remedial action costs, transportation and disposal costs and those costs, expenses, penalties and fines incurred pursuant to any Environmental Laws or regulatory directive or order) that may at any time be imposed upon or incurred by Tenant to the extent arising from or caused by (a) incidents occurring or conditions on, under, from or to the Land existing before the Commencement Date, including those conditions known now or not presently known but discovered in the future, regardless of the cause of the condition or (b) Landlord Parties’ failure to comply with any Environmental Laws; (c) Hazardous Materials that are present on, under, from or to the Land before the Commencement Date, except to the extent Tenant exacerbates the same; and (d) Hazardous Materials present on, under, from or to the Land before or after the Commencement Date if caused by Landlord Parties.

10.6 Survival. The provisions of this Section 10 will survive the expiration or termination of this Lease.

## **11. Indemnification; Release.**

11.1 Tenant Indemnity. In addition to Tenant’s obligations under Section 10, Tenant shall defend, hold harmless, and indemnify Landlord and the Landlord Parties from and against all claims, liabilities, causes of action, lawsuits, demands, penalties, fines and similar losses (collectively, “Claims”) arising out of or related to: (a) the failure of any of the Tenant Parties to comply with the terms of this Lease or with any Governmental Requirements; and (b) negligent acts or omissions or willful misconduct of any Tenant Parties. However, in no event shall Tenant be obligated to defend or indemnify Landlord or any Landlord Parties to the extent such Claim results from the negligent acts or omissions or willful misconduct of any Landlord Parties.

11.2 Landlord Indemnity. To the fullest extent permitted by Governmental Requirements, Landlord shall defend, hold harmless, and indemnify Tenant and the Tenant Parties from and against any and all Claims arising out of or related to the: (a) failure of any of the Landlord Parties to comply with the terms of this Lease or with any Governmental Requirements; (b) failure to timely pay all Property Taxes pursuant to Section 4.1(c) of this Lease; and (c) negligent acts or omissions or willful

misconduct of any Landlord Parties. However, in no event shall Landlord be obligated to defend or indemnify Tenant or any Tenant Parties to the extent such Claim results from the negligent acts or omissions or willful misconduct of any Tenant Parties. Notwithstanding anything herein to the contrary, Landlord's indemnity obligation shall not extend to damages to the System that result from the acts of students.

11.3 Limitation on Liability. Notwithstanding anything to the contrary in this Lease, neither the Landlord nor the Tenant shall in any event be liable for any consequential, punitive or special damages and both the Landlord and Tenant waive any claims either Party may have with respect to the same.

11.4 No Personal Liability. To the fullest extent permitted by Governmental Requirements, no official, employee, agent or representative of Landlord or Tenant shall be individually or personally liable for any obligation or liability of Landlord under this Lease.

11.5 Survival. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

## **12. Insurance.**

12.1 Required Insurance. Tenant shall maintain, during the Term of this Lease and for so long as Tenant or the System continues to be on the Premises, the following insurance:

(a) Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence for personal injury or death, and for damage to property, insuring against any and all liability of Tenant, including without limitation coverage for contractual liability and broad form property damage, with respect to the Premises, the System, or arising out of the maintenance, use, or occupancy of the Premises and/or the System; and (ii) excess liability (so-called umbrella) coverage having a limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence.

(b) Notwithstanding anything herein to the contrary, in lieu of the foregoing insurance requirements, Tenant may self-insure against such risks in such amounts as are consistent with good utility practice. Landlord shall be included as an additional insured. Upon Landlord's request, Tenant shall provide Landlord with reasonable written evidence that Tenant is maintain such self-insurance program.

12.2 During the performance of the Installation Work, Tenant shall also require the construction manager and/or general contractor to maintain (i) for the benefit of Tenant and Landlord, as additional insureds, commercial general liability insurance bodily injury, death and property damage occurring upon, in or about the Premises and on, in and about the adjoining sidewalks and passageways during the construction of the System for at least \$3,000,000 combined single limit per occurrence; (ii) worker's compensation in amounts required by statute; (iii) employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000), and (iv) automobile liability insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired or non-owned, in an amount not less than One Million Dollars (\$1,000,000) combined single limit;

## **13. Default.**

13.1 Default by Tenant. It shall be an event of default under this Lease by Tenant ("Event of Default") if:

(a) Tenant fails to pay Base Rent or other amount due under this Lease or comply with any provision curable by the payment of money (including without limitation Tenant's obligation to maintain the insurance required under this Lease) when due hereunder and such failure continues for twenty (20) days after written notice from Landlord that the same is due;

(b) Tenant fails to perform or observe any other term or condition contained in this Lease and such failure is not cured within thirty (30) days after receipt of written notice from Landlord specifying such failure, provided, however, that if such failure is of such a nature that Tenant cannot reasonably cure the same within such thirty (30) day period, no such failure will be deemed to exist if Tenant commences to cure the default within such thirty (30) day period and thereafter prosecutes the same to completion with reasonable diligence (but in no event later than ninety (90) days from the date of the notice from Landlord unless otherwise agreed upon in writing); or

(c) Tenant shall be bankrupt or insolvent according to law, or, if any assignment shall be made of Tenant's property for the benefit of creditors, or a receiver or trustee is appointed to take over and conduct the business of Tenant, whether in receivership, reorganization, bankruptcy or other action or proceeding, and such bankruptcy or insolvency proceeding, receivership or trusteeship shall not have been vacated not later than ninety (90) days after such declaration, election or appointment, unless (i) such debtor in possession, receiver or trustee, within said ninety (90) days, shall have remedied all defaults under this Lease; and (ii) such debtor in possession, receiver or trustee shall have, within said ninety (90) days, executed an agreement, duly approved by Landlord, whereby such debtor in possession, receiver or trustee shall assume and agree to be bound by each and every term, provision and limitation of this Lease, and if in bankruptcy Tenant, for itself, for the debtor in possession, the receiver or trustee waives its ability to request an extension of the period to assume or reject this Lease in excess of ninety (90) days from the court's order for relief.

(d) Tenant's use of the Premises for any purpose other than a Permitted Use, including without limitation any use that interferes with the conduct of Landlord's educational program and related activities.

Upon the occurrence of an Event of Default, Landlord shall have the right, while such default continues, to re-enter and take complete possession of the Premises, to declare the Term of this Lease ended and remove the System and Tenant's other effects on the Premises, without prejudice to any remedies which might otherwise be available to Landlord.

Without limiting any of Landlord's rights and remedies hereunder, and in addition to all other amounts Tenant is otherwise obligated to pay, Landlord shall be entitled to recover from Tenant all reasonable costs and expenses, including reasonable attorney fees, incurred by Landlord in enforcing this Lease from and after an Event of Default subject to Tenant's cure rights as set forth above.

The provisions of this Section shall survive the expiration or earlier termination of this Lease.

13.2 Default by Landlord. It shall be an event of default under this Lease if Landlord fails to perform any material term or condition under this Lease within thirty (30) days after receipt of written notice from Tenant specifying the failure, provided, however, that if such failure is of such a nature that Landlord cannot reasonably cure the same within such thirty (30) day period, no such failure will be deemed to exist if Landlord commences to cure the default within such thirty (30) day period and thereafter prosecutes the same to completion with reasonable diligence (but in no event later than ninety (90) days from the date the notice is received from Tenant unless otherwise agreed upon in writing). In the event of an emergency or if Landlord fails to cure or to commence performance and diligently pursue the cure of any non-monetary Landlord default within the thirty (30) day period, Tenant shall have the right, but not

the obligation to incur any commercially reasonable cost or make any commercially reasonable expenditure necessary to cure Landlord's default. Landlord shall reimburse Tenant for any such expenditure made or such cost incurred. Any sums due Tenant from Landlord under this Section may be deducted from amounts due or to become due to Landlord under this Lease, or Tenant may seek recovery from Landlord for all such expenses incurred.

Without limiting any of Tenant's rights and remedies hereunder, and in addition to all other amounts Landlord is otherwise obligated to pay, Tenant shall be entitled to recover from Landlord all reasonable costs and expenses, including reasonable attorney fees, incurred by Tenant in enforcing this Lease from and after a Landlord default subject to Landlord's cure rights as set forth above.

**14. Change in Law.** In the event that, at any time after the Effective Date, there is a Change in Law that is applicable to the construction or operation of the System, the sale of energy produced by the System, or any other obligation of the Tenant with respect to the System, and compliance with the Change in Law results in a material increase in Tenant's costs to construct, operate and/or maintain the System, Tenant will have the right to terminate this Lease upon thirty (30) days' written notice to Landlord. For purposes of this paragraph, "Change in Law" shall mean any circumstance in which any constitutional provision, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, award, determination, guideline, approval, tariff, consent or requirement of any governmental authority having jurisdiction over Tenant and/or Landlord is enacted, amended, modified, interpreted, nullified, ordered, issued, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect.

**15. Fire or Other Casualty; Condemnation.**

15.1 Casualty. If the System is substantially damaged or destroyed by fire or other casualty, or an occurrence of a *force majeure* event such that Tenant reasonably determines that the continued operation, replacement or repair of the System will not be economically feasible, then Tenant may elect to terminate this Lease without any further obligation to pay Base Rent or any other amount due under this Lease by giving Landlord at least thirty (30) days' advance notice, and on the date so specified, this Lease shall terminate, and be deemed null and void without recourse to the Parties, other than Tenant's obligation to removal obligations under Section 5.9 and 16 and other than those provisions that expressly survive termination.

15.2 Condemnation. If a condemning authority takes all of the Premises that Tenant reasonably determines will render the continued operation of the System not economically or physically viable or feasible, this Lease shall terminate as of the date title vests with the condemning authority. If a substantial portion of the Premises are taken and the taking, in Tenant's reasonable determination, renders the continued operation of the System either not economically or physically viable or feasible, Tenant may terminate this Lease without any further obligation to pay Base Rent and any other amount that may be due under this Lease, by advance written notice to Landlord within thirty (30) days of such taking.

**16. Surrender.** Within six (6) months from the Termination Date or earlier termination of this Lease, Tenant shall, to the extent required by Section 5.9, remove the System and all other improvements installed by Tenant on the Premises in compliance with all Governmental Requirements. In connection with such removal, Landlord shall continue to provide Tenant with access to the Premises without payment of further rent or consideration. Any improvements not removed from the Premises within the foregoing six (6) month period shall be deemed abandoned and shall become the sole property of Landlord. In such case, Landlord shall have the right to pay for the removal of the System, any costs associated with repairing any damage caused to the System, any costs associated with repairing any damage caused to the Premises for the removal of the System and/or to make such repairs or improvements to the Premises to restore the

Premises to the condition in which they were required to be maintained under this Lease. Tenant shall reimburse Landlord for any such costs. The provisions of this Section shall survive the Termination Date or earlier termination of this Lease.

**17. Assignment.** Tenant shall not assign this Lease or sublet the Premises or any portion thereof absent the written approval of Landlord, which consent is subject to approval by Landlord's Board of Directors, provided, that Tenant may assign this Lease to an affiliate of Tenant or any successor to Tenant by merger or consolidation or to any entity that acquires a substantial portion of all of the assets, stock or equity of Tenant. Provided that such assignee expressly assumes in writing the obligations of Tenant hereunder, and provided that such assignee has sufficient expertise and experience in the ownership or operation of electric generating facilities comparable to the System to be reasonably capable of performing the obligations of Tenant under this Lease in accordance with good utility practice, Tenant shall be automatically released from all further liability under this Lease from and after the date of such assignment.

**18. Miscellaneous.**

18.1 Independent Obligations. Landlord agrees and acknowledges that Landlord's participation in Tenant's community solar program and the Project (including any rights and obligations associated with such participation) is an undertaking independent from Landlord's rights and obligations under the Lease and that such participation shall not affect Landlord's rights and obligations under this Lease.

18.2 Quiet Enjoyment. Landlord covenants that so long as no Event of Default has occurred and is continuing, Tenant shall quietly have and enjoy the Premises during the Term. Landlord's exercise of self-help remedies provided under this Lease and rights of entry and inspection shall not be considered a breach of the covenant of quiet enjoyment.

18.3 Further Leases, Easements, and Rights of Way. Landlord reserves the right to grant additional leases, easements, leases or rights of way of the Remaining Property, whether recorded or unrecorded, as may be necessary, which do not unreasonably interfere with Tenant's use of the Premises and the operation of the System.

18.4 Amendments. This Lease may be amended only in writing signed by Tenant and Landlord or their respective successors in interest.

18.5 Notices. Any notice required or permitted to be given in writing under this Lease shall be (a) mailed by certified mail, postage prepaid, return receipt requested, (b) sent by overnight air courier service, (c) personally delivered to a representative of the receiving Party, or (d) sent by email with confirmation of receipt (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section). All notices under this Lease shall be effective three (3) business days after having been mailed by certified mail, one (1) day after having been sent by overnight air courier service, at the time of successful delivery personally to Landlord or Tenant at their addresses below, or one (1) business day after being sent by email. All such communications shall be mailed, sent or delivered, addressed to the Party for whom it is intended, at its address set forth below:

**If to Landlord:**

Issaquah School District No. 411  
Attn: \_\_\_\_\_  
5150 220th Ave SE,  
Issaquah WA 98029

**With a copy to:**

Issaquah School District No. 411  
Attn: \_\_\_\_\_  
5150 220th Ave SE,  
Issaquah WA 98029

**If to Tenant:**

PUGET SOUND ENERGY- Real Estate- MP  
355- 110th Ave NE EST-06E  
PO Box 97034  
Bellevue, WA 98009

18.6 Waiver. No waiver by either Party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either Party shall require the consent or approval of the other Party, the other Party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of such action on any subsequent occasion or a consent to or approval of any other action on any subsequent occasion.

18.7 Remedies Cumulative. No remedy herein conferred upon or reserved to Tenant or Landlord shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

18.8 No Third Party Beneficiaries. This Lease is solely for the benefit of the Parties and no right or cause of action shall accrue for the benefit of any third party not a Party.

18.9 Captions. The captions and headings throughout this Lease are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Lease, nor in any way affect this Lease, and shall have no legal effect.

18.10 Prevailing Party. In any litigation between the Parties arising out of this Lease, or in connection with any other actions taken or notices delivered in relation to a default by any party to this Lease, the non-prevailing Party shall pay to the prevailing Party the prevailing Party's reasonable attorney fees and costs incurred in connection with the enforcement of the terms of this Lease.

18.11 Estoppel. Either Party will, at any time upon thirty (30) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such Party's knowledge, any uncured defaults on the part of the other Party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or lender.

18.12 Severability. If any term or provision of this Lease or the application thereof to any person or circumstances shall, 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, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

18.13 Choice of Law; Venue. This Lease shall be construed in accordance with the laws of the state of Washington. Venue for any lawsuit arising out of or related to this Lease shall be in King County, Washington.

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

18.15 Counterparts. This Lease may be executed in counterparts, which shall together constitute one and the same agreement. “.Pdf” or other digital signatures shall have the same effect as original signatures.

18.16 Entire Agreement. This Lease represents the full and complete agreement between the Parties with respect to the subject matter contained herein and supersedes all prior written or oral agreements between said Parties with respect to said subject matter.

18.17 Further Assurances. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section.

*[Signature Pages Follow]*



**TENANT:**

PUGET SOUND ENERGY, INC.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2020, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_, a representative of \_\_\_\_\_, a \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, of the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of the Land  
PINE LAKE MIDDLE SCHOOL  
KING COUNTY APN 102406-9010**

PARCEL A, SAMMAMISH BOUNDARY LINE ADJUSTMENT NO. PLN2004-00011,  
RECORDED UNDER RECORDING NO. 20040315900005, KING COUNTY, WASHINGTON

**EXHIBIT A-1**

**Preliminary Depiction of Lease Area  
PINE LAKE MIDDLE SCHOOL  
KING COUNTY APN 102406-9010**

