

**Surface Lease and
Usage Agreement**

Prepared by:
Hillsboro Energy LLC
PO Box 457
Hillsboro, Illinois 62049

SURFACE LEASE AND USAGE AGREEMENT

This Surface Lease And Usage Agreement, hereinafter "Lease", having an effective date as of February 1, 2023, hereinafter "Effective Date", by and between HILLSBORO ENERGY LLC, a Delaware Limited Liability Company, with a mailing address at PO Box 457 Hillsboro, Illinois 62049, hereinafter "Hillsboro", and Stephen C. Seltzer, Trustee, with a mailing address of 825 East Street, Albemarle, NC 28001, hereinafter referred to individually and collectively as "Lessor", and Lessor and Hillsboro jointly referred to as the "Parties" and individually as "Party".

WHEREAS, Lessor owns the surface corresponding to that part of the South One-Half (S ½) of Section Twenty-Eight (28), lying south of Illinois Route 185, AND all that part of the North One-Half (N ½) of Section Thirty Three (33), EXCEPTING that certain tract owned by Vistra Energy, all being situated in Township Eight (8) North, Range Three (3) West of the 3rd P.M. Montgomery County, Illinois, hereafter referred to as the "Property"; and more specifically depicted on Exhibit "A" attached hereto.

WHEREAS, Hillsboro desires to lease those certain portions of the Property along with ingress and egress to each site generally shown on Exhibit "A" attached hereto and made a part

hereof (hereafter referred to as the "Affected Lands"), for the uses and purposes set forth below;
and

WHEREAS, Hillsboro is the holder of the right to mine the coal underlying the Property and various other mining rights related thereto (hereafter referred to as the "Coal Estate"; and

WHEREAS, the Parties desire to enter into an agreement whereby Hillsboro may conduct surface operations on the Affected Lands all with respect to its mining and/or development of the Coal Estate;

NOW THEREFORE, for and in consideration of the following terms and conditions, the Parties agree as follows:

1. Lessor hereby grants to Hillsboro the exclusive right to enter upon the Affected Lands to conduct mining operations in such a manner as Hillsboro may determine (hereafter referred to as the "Rights"). Said operations may include, but shall not be limited to, the following:
 - a. The right of ingress and egress upon the surface of the Affected Lands at any time with any tools, machinery and appliances, to drill, install, construct, maintain, monitor, repair, remove, replace, or modify shafts, dewatering holes, injunction holes, material supply holes, methane recovery holes, gas vent holes, water supply holes, variable speed turbine pumps, Jenn-Chem sites, pipelines, power supply lines and other utility lines, and to create surveys or maps, (hereafter referred to as the "Facilities and Appurtenances"), and to undertake any other thing or use necessary or convenient for exercising the Rights not otherwise specified in this paragraph, all with respect to its mining and/or development of its mineral interests. Any Facilities and Appurtenances to be buried shall be trenched, dug, laid or bored, except as otherwise allowed herein, at a minimum of 48 inches below the surface.
 - b. Hillsboro's use of the Property shall be subject to the following conditions and limitations:

- c. The use of the Property shall be expressly limited to the Affected Lands as generally illustrated and located on the attached Exhibit "A"; provided, however, that the Affected Area shall not apply at any time when Hillsboro is constructing, installing, replacing or removing of any Facility and Appurtenances or conducting significant maintenance or repairs thereto. At such time when Hillsboro is constructing, installing, repairing or removing the Facilities and Appurtenances or conducting significant maintenance or repairs thereto, the Affected Area shall be expressly expanded to allow for an area as necessary to conduct said activities.
- d. Hillsboro will pay Lessor the fair market value for any crop loss incurred from time to time by Lessor and/or its tenant farmer by reason of the installation, operation, and/or maintenance of the Facilities and Appurtenances. Further, Hillsboro shall pay Lessor the posted price for like and kind species of marketable timber cut by reason of the installation, operation, and/or maintenance of the Facility and Appurtenances. All trees that are cut shall become the property of Hillsboro and be removed from the Property at Hillsboro's sole expense. Furthermore, Lessor shall not plant any new trees within the Affected Area once cleared by Hillsboro.
- e. Lessor reserves the right to use the Property and Affected Area for purposes which will not interfere in any way with Hillsboro's full and peaceful enjoyment of the Lease Agreement and Rights hereunder.
- f. Hillsboro shall be responsible for payment of all taxes assessed against its facilities; Lessor shall remain responsible for all taxes assessed against the Property.
- g. Hillsboro agrees that it will conduct its operations hereunder and on the Property in a workmanlike manner and in accordance with industry practice ("industry practice" as defined herein shall mean usual and customary to the mining industry, and maintaining compliance with and as prescribed by any State and/or Federal Regulatory Agency having jurisdiction over the operations conducted under this Lease Agreement); that it will comply with all applicable laws and regulations; and that it will obtain all necessary

permits.

- h. By entering into this Lease, Hillsboro does not waive, relinquish or release any rights granted it pursuant to its deed and/or leasehold or other acquisition documents or by applicable laws and regulations, but hereby reserves all of said rights.

2. The term of this Lease shall be for five (5) years, with Hillsboro retaining an option to extend the term for three (3) additional years.

3. Possession of the Property and Affected Lands shall be delivered upon execution of this Lease.

4. The annual payment for this Lease shall be [REDACTED] dollars and [REDACTED] cents [REDACTED] and other good and valuable consideration to which Lessor acknowledges receipt thereof upon the date of execution herein.

5. Hillsboro will indemnify and defend Lessor against all claims, loss and expense by reason of liability imposed or claimed to be imposed by law for damage due to bodily injury (including death) and property damage sustained by any person(s) arising out of or in consequence of Hillsboro's exercise of its Rights, whether the same arise in whole or in part from negligence (or from any other legal basis) of Hillsboro, its employees or agents.

6. In the event that Hillsboro, or its affiliates and assigns, disturb or damage any portion of the Property, during its operations, in a manner that is prohibited by any contract between Lessor and the federal or state government, such as CRP, Grantee agrees to redress any such damages as allowed by the program, or reimburse Lessor any fines or fees levied due to Hillsboro's operations.

7. This Lease shall be governed by the laws of the State of Illinois. Should suit be brought to enforce the provisions of this Lease, it shall be filed in a court of competent jurisdiction sitting in Franklin County, Illinois. **THE PARTIES TO THIS LEASE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE.** If litigation is commenced to enforce the rights of any party to this Lease, then the non-prevailing party shall reimburse the prevailing party for all

reasonable expenses incurred in prosecuting and/or defending any such litigation or other proceeding, including, without limitation, attorneys' fees and court costs.

8. Upon termination of this lease, as provided for herein, Hillsboro shall restore the Property, as nearly as is reasonable and practical to the condition in which they existed prior to the time of this Lease. At Hillsboro's cost, Hillsboro shall fill and restore shaft sites, plug boreholes in compliance with all regulatory directives and remove any structures or equipment. Hillsboro shall also arrange for the removal of any electrical power lines or power supply. The foregoing sentence notwithstanding, the Parties agree that Hillsboro shall not shall remove or restore the roadway or roadway materials, including roadway culverts and gravel, that are installed and maintained by Hillsboro on the Affected Premises during the term of this Lease. Hillsboro shall leave the same in place as the property of Lessor, and Lessor shall be responsible for any future maintenance, repair and removal thereof.

9. It is agreed that Hillsboro has the right and option to terminate this Lease by delivering to Lessor in person or by Certified United States Mail a letter so stating Hillsboro's intent to terminate and provide Lessor with a release of Lease in recordable form. After expiration or termination of this Lease, Hillsboro shall re-enter the Affected Lands and remove all of its equipment and related property and begin any required reclamation and environmental work on and respecting the Affected Lands within one hundred eighty (180) days thereafter..


10. This Lease constitutes the entire agreement between the Parties, superseding all representations, agreements, memoranda and correspondence between, by or for the Parties relating to the operations and the Affected Lands, and shall be construed in accordance with the laws of Illinois. No amendment or modification of this Lease shall be binding unless made by written instrument of equal formality with this Lease. Waiver by either Party of strict performance by the other Party of any of the provisions of this Lease shall not be construed as a waiver of any future right to insist upon full performance of the terms of this Lease.

11. This Lease shall be binding upon and inure to the benefits of the parties hereto, their heirs, successors, personal representatives, sub-lessees and assigns.


12. Any notice or communication required by this agreement shall be in writing addressed to the Party or Parties as first above written.

IN WITNESS WHEREOF, this agreement is executed and effective as of the day and year first above written.


STEPHEN C. SELTZER, TRUSTEE

By: 
Printed Name: Stephen C. Seltzer
Title: Trustee / C.E.O.

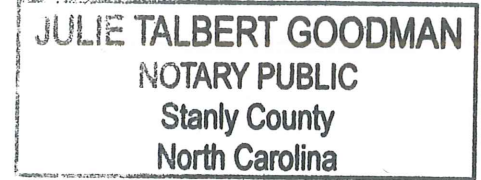
HILLSBORO ENERGY LLC

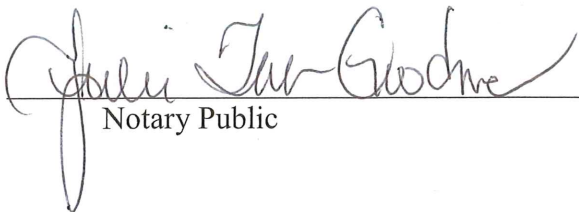
By: 
Printed Name: Todd Leverton
Title: General Manager

STATE OF NC)
COUNTY OF Stanly) SS

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Stephen C. Seltzer, whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he signed and delivered the said instrument of writing as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 26th day of January, 2023.




Notary Public

My Commission Expires
April 10, 2024

STATE OF ILLINOIS)
) SS
COUNTY OF MONTGOMERY)

I, the undersigned Notary Public, in and for said County in the State aforesaid, do hereby certify that Todd Leverton personally known to me to be a duly authorized person of HILLSBORO ENERGY, LLC, a Delaware Limited Liability Company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that (s)he signed, sealed and delivered the said instrument as such authorized person pursuant to authority given by the Members of said limited liability company, as his/her free and voluntary act, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

Given under my hand and seal this 1st day of February, 2023.



Notary Public



Exhibit A

