

BLUEWAVE

To: Worthington Town Planning Board

From: BWC Wades Stream, LLC

Date: December 10th, 2025

Subject: Additional Materials for Site Plan Review Application for BWC Wades Stream, LLC
LSGMSPI

Dear Members of the Planning Board:

BWC Wades Stream, LLC (Applicant) respectfully submits the following additional materials to the Worthington Town Planning Board's review of the Site Plan Review Application for a proposed Large-Scale Ground Mounted Solar Photovoltaic Installation (LSGMSPI) (the project) located at 190 Ridge Rd, Worthington, Massachusetts in Hampshire County.

Attached please find (1) the redacted Land Lease and Easement Agreement for purposes of establishing site control, and (2) the Certificate of Liability Insurance associated with this project. With this submittal, the Applicant's position is that the Site Plan Review completeness requirements in Section 2.6.3 of the Zoning Bylaw have been met.

If the Planning Board concurs and finds the application complete, then the Applicant agrees to a continuance of the time for decision on the Site Plan Review Application under Section 2.6.7(D) of the Zoning Bylaw to January 8, 2026 at 6:30, such that it is on the same timeframe as the Special Permit application for this project.

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Attachment A: Land Lease and Easement Agreement

LAND LEASE AND EASEMENT AGREEMENT

THIS LAND LEASE AND EASEMENT AGREEMENT (this “Agreement”) is made, dated and effective as of the 27 day of September, 2024, (the “Effective Date”), between **Timothy J. Sena and Catherine Rude-Sena** (together with its transferees, successors and assigns, as (“Landlord”), and **BWC Wades Stream, LLC**, a Delaware limited liability company (together with its transferees, successors and assigns, (“Tenant”), and in connection herewith, Landlord and Tenant agree, covenant and contract as set forth in this Agreement. Landlord and Tenant are sometimes referred to in this Agreement as a “Party” or collectively as the “Parties”.

WHEREAS, Landlord owns the real property including the air space thereon, located at 190 Ridge Road, Worthington, MA 01098 and identified as Tax Parcel 407 0 28 by the assessors’ records of the locality in which such property is located , titled in the name of Landlord by Deed recorded in the Hampshire County Registry of Deeds in Book 8119 at Page 223 and which is more particularly described in Exhibit A-1 attached hereto and incorporated by reference herein (the “Property”);

WHEREAS, Tenant wishes to lease the portion of the Property described in Exhibit A-2 attached hereto (such portion of the Property being referred to herein as the “Leased Premises”), together with the easements granted herein, in order to develop, design, install and operate the Facility (as defined in the Glossary of Terms) thereon.

WHEREAS, Landlord is willing to lease the Leased Premises to Tenant for the development, construction, operation and maintenance of the Facility and associated uses necessary or ancillary thereto;

WHEREAS, Tenant desires and Landlord is willing to grant Tenant certain easements across the Property which easements are necessary for the development, construction, operation and maintenance of the Facility on the Leased Premises;

NOW THEREFORE, in consideration of the premises, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. DEFINITIONS. In addition to those terms defined in the beginning, the recitals or elsewhere in this Agreement, capitalized terms set forth in the Glossary of Terms, attached hereto and incorporated herein shall have the meanings as set forth therein.

2. LEASE. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Landlord and Tenant, upon the terms and conditions set forth in this Agreement, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the Leased Premises for the Permitted Uses for the Term. Tenant shall have quiet and peaceful possession of the Leased Premises, use of the Easements and any other rights granted by this Agreement for the entire Term without hindrance, interruption, suit, trouble or interference of any kind by Landlord or any other person or entity claiming (whether at law or in equity) by, through or under Landlord.

2.1 Permitted Uses. The Leased Premises shall be used for Due Diligence Activities, construction, operation and maintenance of the Facility, access and utilities and any other lawful related purpose and Tenant shall have the exclusive right to develop and use the Leased Premises for such purpose and the other Permitted Uses described in this Section 2 and to derive all profits therefrom, including but not limited to the following activities (collectively, “Site Activities”):

(a) If the Facility includes a solar photovoltaic electric generating facility, converting solar radiation emitted from the sun (“Solar Energy”) into electrical energy, and collecting, storing, and transmitting the electrical energy so converted;

(a) Due Diligence Activities for purposes of determining the feasibility of installation and operation of the Facility, and of Solar Energy conversion on the Leased Premises and a related substation on the Property or on adjacent lands, including studies of Solar Energy emitted upon, over and across the Property and other meteorological data, environmental studies and extracting soil samples;

(b) Constructing, laying down, installing, using, replacing, relocating, reconstructing and removing from time to time, and monitoring, maintaining, repairing and operating the following improvements: (i) Solar Energy and/or electricity collection and electrical generating equipment of all types including, without limitation, any such equipment utilizing photovoltaic and/or solar thermal technology (collectively, “Solar Generating Equipment”); (ii) overhead and underground electrical distribution, collection, transmission and communications lines or cables, electric combiners, inverters, transformers and substations, energy storage facilities, and telecommunications equipment; (iii) roads and crane pads; (iv) meteorological measurement equipment; (v) control buildings, operations and maintenance facilities and building; and (vi) any other improvements, that Tenant reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing;

(c) Interconnecting the Facility to the local electric distribution system, and selling electricity produced, discharged and/or generated by the Facility. Tenant may determine whether any group of Facilities constitutes a single Facility or multiple Facilities for purposes of this Agreement, and in the case of multiple Facilities, which portion of the Property shall be included within each Facility.

2.2 Dual-Use Agricultural Operations. At Tenant’s option, in its sole discretion, Tenant shall have the exclusive right to use and occupy the Leased Premises for agricultural and farming purposes to qualify the Facility as an agricultural solar generation unit, by dual land use for agriculture and a solar canopy system (“Dual-Use Solar Facility”). This includes, without limitation, the right to use the property for grazing, farming, establishing pollinator habitat, agricultural uses, and all other forms of agrivoltaics and vegetation control in connection with a Dual Use Solar Facility, including, at Tenant’s discretion, installation of fencing or improvements related to said agrivoltaics and the maintenance thereof. This also includes the right to take necessary steps to enroll the Leased Premises in any preferential property tax or incentive program necessary to qualify the Facility as a Dual-Use Solar Facility. This use shall include Tenant’s right to sublease or sublicense the Leased Premises for agriculture and farming purposes and to enter into any related agreements (“Dual-Use Agricultural Operations”) and to make all necessary governmental and quasi-governmental filings and secure any permits in

respect to such Dual-Use Agricultural Operations, in each case without the need to provide notice to or secure the prior consent of Landlord. Tenant shall also have the right, in its sole and absolute discretion, to remove or reclassify the Leased Premises and any Easements from any agricultural or farming designation. Notwithstanding the foregoing, Tenant agrees that the Leased Premises shall not be used for equine species related agriculture and farming purposes with the intention of equine meat production.

2.3 Tenant's Use of the Leased Premises. Tenant may use the Leased Premises for Permitted Uses, as further set forth below:

(a) During the Development Period,

(i) Tenant and its employees, agents and contractors shall have a non-exclusive right to enter upon the Property outside the Leased Premises and the right of ingress and egress over and across the Property outside the Leased Premises for the purpose of conducting due diligence activities (collectively, "Due Diligence Activities"), which Due Diligence Activities include, but are not limited to (i) surveying the Leased Premises, (ii) performing such other tests and studies as Tenant may desire in connection with the development of the Facility, including, without limitation, environmental, noise, avian, bat and cultural resource assessments, and geotechnical, foundation and soil tests, and (iii) installing, maintaining, operating, inspecting and removing one or more solar monitoring devices and all associated activities, including the Weather Instruments (defined below) and including the performance of all tests and studies associated therewith. "Weather Instruments" shall mean ground-based instruments (including Sonic Detection and Ranging ("SODAR") instruments) used primarily to gather and transmit meteorological data relating to the solar project, and includes meteorological data acquisition equipment, power source, and any required data and electrical transmission lines. Landlord shall reasonably cooperate with all of Tenant's Due Diligence during the Development Period, including environmental due diligence, provided that such cooperation does not cause Landlord to incur any expenditure (unless Tenant shall reimburse Landlord for any such expenditure). After its investigations of the Property during the Development Period, Tenant shall restore the Property outside the Leased Premises, at Tenant's sole cost and expense, substantially to its condition immediately prior to Tenant's inspections, wear, tear and casualty damage excepted; and

(ii) Tenant may construct the Facility and engage in activities associated with constructing the Facility, including producing electricity prior to achieving Commercial Operation of the Facility and installing equipment necessary for remote monitoring of the Facility.

(b) During the Operations Period, Tenant may use the Leased Premises for any of the Permitted Uses.

(c) Subject to provisions of Section 15.2, during the Decommissioning Period, Tenant shall cease Commercial Operation of the Facility, and shall remove the Facility from the Leased Premises and restore the Leased Premises to its preexisting condition, wear, tear and casualty damage excepted, as provided in Section 4.5.

3. GRANT OF EASEMENTS.

3.1 Landlord hereby grants, conveys and warrants to Tenant, and Tenant hereby accepts the following easements upon, over, across, under and burdening the Property and any Surrounding Property at all times during the Term:

- (a) **Solar Easement; Non-Obstruction.** An exclusive easement pursuant to Applicable Law, on, over and across the Property and Surrounding Property for the purpose of ensuring access to direct sunlight to any solar panels on the Leased Premises and an exclusive easement prohibiting any obstruction of direct sunlight throughout the entire Property to and for the benefit of the area existing horizontally three hundred and sixty degrees (360°) from any point where any solar panel is or may be located at any time from time to time (each such point referred to as a “Site”) and for a distance from each Site to the boundaries of the Property and any Surrounding Property, together vertically through all space located above the surface of the Property, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from each point along the exterior boundary of the Property and Surrounding Property through each Site to each point and on and along such line to the opposite exterior boundary of the Property and any Surrounding Property (collectively, the “Solar Easement”);
- (b) **Operating Easement.** An exclusive easement over the Property and any Surrounding Property for all activities occurring on the Leased Premises, in the Solar Easement, Access Easement or the Utility Easement necessary to develop and operate the Facility, including but not limited to, electromagnetic, audio, visual, view, light, noise, vibration, electrical, radio interference, or other effects attributable to the Facility or any Site Activities;
- (c) **Access Easement.** An exclusive easement to access the Facility and the Leased Premises for equipment access and for vehicular and pedestrian ingress to and egress, from the Facility (whether located on the Property, on adjacent property or elsewhere) over and across the Property and Surrounding Property by means of roads and lanes thereon if existing or later constructed by Landlord, or otherwise by such route or routes as Tenant may construct from time to time, and which roads and lanes must connect to a public way, including over any areas specifically identified on Exhibit A-2 hereto (“Access Easement”);
- (d) **Utility Easement.** An exclusive easement to construct, install, operate, maintain, relocate, remove, repair electric service infrastructure, poles, towers, foundations, switchgear, cabinets, transformers, and other equipment necessary and convenient to interconnect the Facility to the local electric distribution system and for transmitting electric current and communications and intelligence, which may be overhead or underground, including over any areas specifically identified on Exhibit A-2 hereto (“Utility Easement”); and
- (e) **Vegetation Maintenance Easement.** (i) An easement to enter upon the Property and trim and cut vegetation and trees along the access and utility easements which may overhang or interfere with such access and utility easements, and (ii) an easement to trim existing trees and vegetation on the Property that interfere with the Solar Easement from any angle upon, across and over the Leased Premises. The easement granted in this subsection (e) shall be exercised after providing Landlord with at least five (5) Business Days prior written notice of the Tenant’s need to enter the Property.

(f) Temporary Construction Easement. A non-exclusive easement to be located at a mutually acceptable location on a portion of the Property and Surrounding Property to be used for temporary (i) storage and staging of tools, materials and equipment, (ii) construction laydown, (iii) parking of construction crew vehicles and temporary construction trailers, (iv) vehicular and pedestrian access and access for rigging and material handling, and (v) other facilities reasonably necessary to construct, erect, install, expand, modify or remove the Facility. In the event that Tenant disturbs the surface of the Property or Surrounding Property in connection with the exercise of its rights under this easement, Tenant will, at its sole expense, restore the surface of such areas so-disturbed to substantially the same or better condition as existed prior to such disturbance, provided, however, that Tenant shall not be required to restore any vegetation.

(g) To the extent that Landlord holds or has the right to use any access, utility, transmission, water, stormwater or other easements, rights of way or licenses over lands in the general vicinity of the Property or the Surrounding Property (the "Landlord Easements") on or after the date of this Agreement, and such Landlord Easements are or could be used for the benefit of the Property, then the same are hereby included in this Agreement, and Tenant shall be entitled to use such Landlord Easements, if such use is permitted under Landlord Easements and provided that such use does not interfere with use of the same by Landlord or other parties having rights therein, and; provided that such use does not cause any claims against Landlord relating to Tenant's use thereof. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of Landlord Easements to run concurrently with the Term (or for such shorter period as provided in Landlord Easement).

(h) Other Easements. All other easements reasonably necessary to accomplish the activities permitted by this Agreement, including but not limited to the Permitted Uses and those activities described in Section 2. During the Development Period, the boundaries of the easements granted in Sections 3.1(c) and 3.1(d) may be determined by means of a plan or survey prepared by Tenant, and such plan or survey shall then define the easement locations. Exhibit A-2 shall be amended with such plan or survey.

3.2 Landlord's grant of easements in Section 3.1(a) through (e) shall commence on the Effective Date and continue throughout the Term and any extensions of the Term, and for the time necessary and convenient to perform any decommissioning, if such obligations extend beyond the Term. Landlord's grant of easement in Section 3.1(f) shall commence on the Effective Date and shall continue through the Construction Phase.

3.3 If required by the local electric utility ("Utility"), Landlord shall grant to the Utility an easement and right to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the Facility to the Utility electrical distribution system, the location of which will be determined by the Utility prior to the Commercial Operation Date. If required by the Utility, Landlord shall enter into a recordable easement instrument on the Utility's form.

3.4 All easements shall burden the Property and shall run with the land for the benefit of Tenant, its successors and assigns (including any Financing Parties and any other permitted assignees of Tenant's rights under the Agreement), and their respective agents,

contractors, subcontractors and licensees.

3.5 At Tenant's request, Landlord shall timely execute one or more recordable standalone easement agreements and in addition to recording the Memorandum/Notice of Lease and Easements in accordance with Section 17.5 shall execute and permit Tenant to record any other documents reasonably requested by Tenant to evidence and give effect to such easements.

3.6 The Parties shall evenly share in the routine maintenance costs to any and all access roads or ways (the "Access Roads") developed for the construction and maintenance of the Solar Facility that are used by both Parties, and shall evenly share in that portion of the routine maintenance costs assessed to Landlord for any and all shared access roads or ways that are used by both Parties until the expiration of the Term of this Agreement. Each Party shall be responsible for the non-routine maintenance and repair of any damage to Access Roads caused by said Party.

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

4.1. Development Period. The Development Period (the "Development Period") will begin on the Effective Date and will terminate on the earliest of:

- (a) Delivery by Tenant of notice of termination in accordance with Section 4.2(c);
- (b) Tenant's election to commence the Operations Period as provided in Section 4.3(b); or
- (c) the Commercial Operation Date.

4.2. Development Period Phases. The Development Period has two phases, the Pre-Construction Phase and the Construction Phase.

(a) Pre-Construction Phase. The Pre-Construction Phase ("Pre-Construction Phase") will commence on the Effective Date and continue for up to three (3) years thereafter, in order to allow Tenant time to continue evaluation of the suitability of the Property for the Facility, including in-depth site analysis, transmission, capacity, permitting constraints, geotechnical studies, environmental studies, drilling bore holes, applying for interconnection and obtaining a signed interconnection agreement and required permits in order to be able to commence construction. Subject to Tenant having made all payments of Rent then due, Tenant shall have the right, by written notice to Landlord, to extend the Pre-Construction Phase for an additional one (1) year period. The Pre-Construction Phase shall be extended on a day-for-day basis due to acts, omissions or delays of a Governmental Authority or the Utility which result in delay in achievement of the Construction Start Date.

(b) Construction Phase. The Construction Phase (the “Construction Phase”) will commence on the first to occur of (i) the expiration of the Pre-Construction Phase or (ii) the Construction Start Date, and ends on the Operations Period Commencement Date, determined as provided in Section 4.3 below.

(c) Termination Right. At any time during the Development Period, Tenant shall have the right to terminate this Agreement by thirty (30) days written notice to Landlord. Upon termination, neither Party shall be required to perform any obligations hereunder which, but for such termination, would have arisen after the effective date of such termination.

(d) Confirmation of Leased Premises. In the event that it is determined by Tenant during the Development Period that there are changes required to the legal description of the Leased Premises, including without limitation the creation of a new ALTA survey of the portion of the Property on which the Facility will be located, with metes and bounds legal description, the validity of this Agreement shall not be affected, and, upon the request of Tenant, Landlord shall execute an amendment to the legal description of the Leased Premises contained in Exhibit A-2 of this Agreement and in any memorandum of this Agreement to reflect the final legal description of the Leased Premises.

4.3. Operations Period. The Operations Period (the “Operations Period”) shall commence on the earlier of:

(a) 12:01 a.m. on the first day after the Commercial Operation Date; or

(b) Tenant’s election to commence the Operations Period, notwithstanding that the Facility has not yet attained the Commercial Operation Date (it being agreed that at the end of the Construction Phase of the Development Period Tenant shall have been deemed to elect to commence the Operations Period unless prior to such time Tenant has exercised any rights hereunder to terminate this Agreement);

(such date being referred to herein as the “Operations Period Commencement Date”) and will end at 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the Operations Period Commencement Date occurs. Tenant shall provide Landlord with written notice of the Commercial Operation Date.

4.4. Extended Operations Period. Tenant shall have the exclusive right to extend the Operations Period for up to four (4) additional consecutive terms of five (5) years each for a total of twenty (20) additional years.

4.5. Decommissioning Period. The Decommissioning Period (the “Decommissioning Period”) shall commence when the Operations Period, including any extensions thereto, expires, and shall continue for a period of 180 days, (provided that if such 180 day term begins or ends within the

months of December, January, February, March, or April, the Decommissioning Period shall be extended to the next occurring July 31) whereupon this Agreement shall expire and shall be of no further force and effect, except that such termination shall not release or modify any of the obligations of the Parties arising prior to such termination. Subject to provisions of Section 15.2, promptly following the Operations Period expiration, or an earlier termination of this Agreement, Tenant shall remove all structures, equipment, personal property and transmission lines from the Leased Premises at Tenant's sole cost and expense. Tenant shall perform the decommissioning during the Decommissioning Period in accordance with any permits issued by the local permitting authority. If Tenant performs the decommissioning after this Agreement terminates, Tenant's access to the Property shall be pursuant to the easements granted herein.

4.6. End of Term. To the extent required by applicable law, if the Operations Period Commencement Date does not occur within thirty (30) years after the Effective Date, this Agreement shall terminate.

5. [REDACTED]

6. OWNERSHIP OF FACILITY.

6.1. Tenant or Financing Party shall be the legal and beneficial owner of the Facility (including without limitation, all additions, alterations, and modifications thereto or replacements thereof, all appurtenant fixtures, machinery and equipment installed therein), all electrical output from the Facility, Environmental Attributes, Tax Attributes and other incentives, at all times. Landlord shall have no ownership, lien, security or other interest in any Facility. The Facility is personal property and shall not attach to or be deemed a part of, or fixture to, the Leased Premises or the Property. The Facility shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Landlord covenants that it will place all persons having an interest in or lien upon the real property comprising the Property, on notice of the ownership of the Facility and the legal status or classification of the Facility as personal property. Landlord and/or Tenant shall make any necessary filings to disclaim the Facility as a fixture of the Leased Premises and the Property in the appropriate Land Registry to place all interested parties on notice of the ownership of the Facility by Tenant. Notwithstanding anything to the contrary stated above, Landlord shall retain all rights in and to the Property, subject to the rights granted to Tenant hereunder, including the rights to profits derived from timber, and crop harvest, provided, Landlord's exercise of such rights shall not interfere with Tenant's easements rights over the Property and operation of the Facility on the Leased Premises during the Term of this Agreement.

6.2. Landlord shall have no right or interest in any of the electric energy produced by the Facility or in any Environmental Attributes, Tax Attributes, or other rights or incentives associated with the production of electric energy by the Facility.

6.3. Landlord hereby waives any and all rights it may have to any lien rights, whether statutory or otherwise, on Tenant's personal property, including without limitation, the Facility, Tenant's inventory, trade fixtures, and removable equipment and fixtures located within or on the Leased Premises, whether or not any part of the Facility becomes so related to the Leased Premises that an interest therein would otherwise arise under Applicable Law. Landlord agrees to (i) take no action to impede or interfere with a Financing Party's remedies under a security interest in said personal property of Tenant and (ii) execute, upon request, a confirmation of such waiver in a form reasonably satisfactory to Tenant and its Financing Parties.

7. LANDLORD ACTIVITIES; REVIEW.

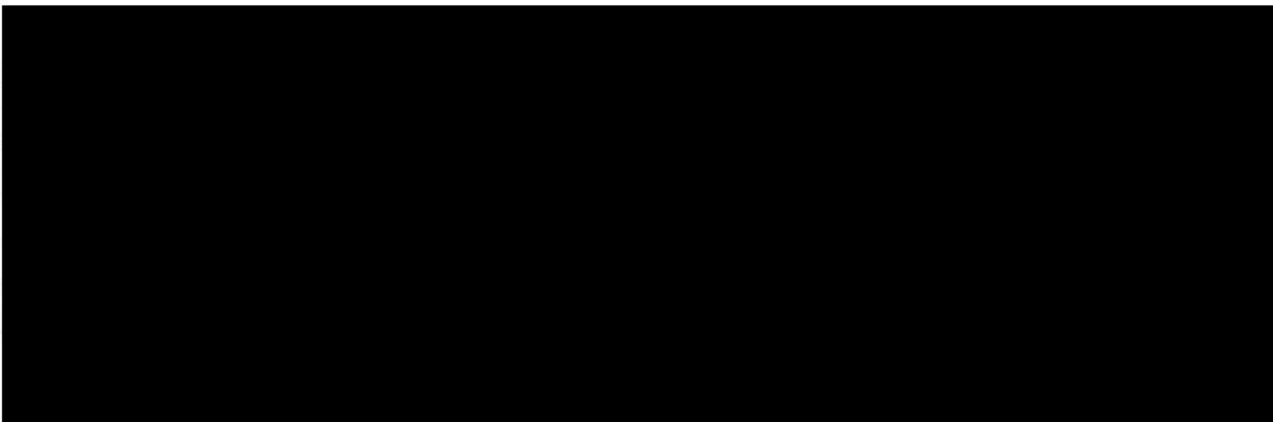
7.1. Landlord shall maintain the Property and its Surrounding Property adjacent to the Leased Premises in good condition and state of repair to avoid interference with Tenant's use of and access to the Leased Premises and any appurtenant easements. Landlord shall not construct structures or plant trees adjacent to the Leased Premises that will impede solar access to the Facility. Landlord shall not engage in activities at the Property or on the Surrounding Property that will materially impact conditions on the Leased Premises, or construct any structures or improvements on the Leased Premises or the Utility Easement parcel.

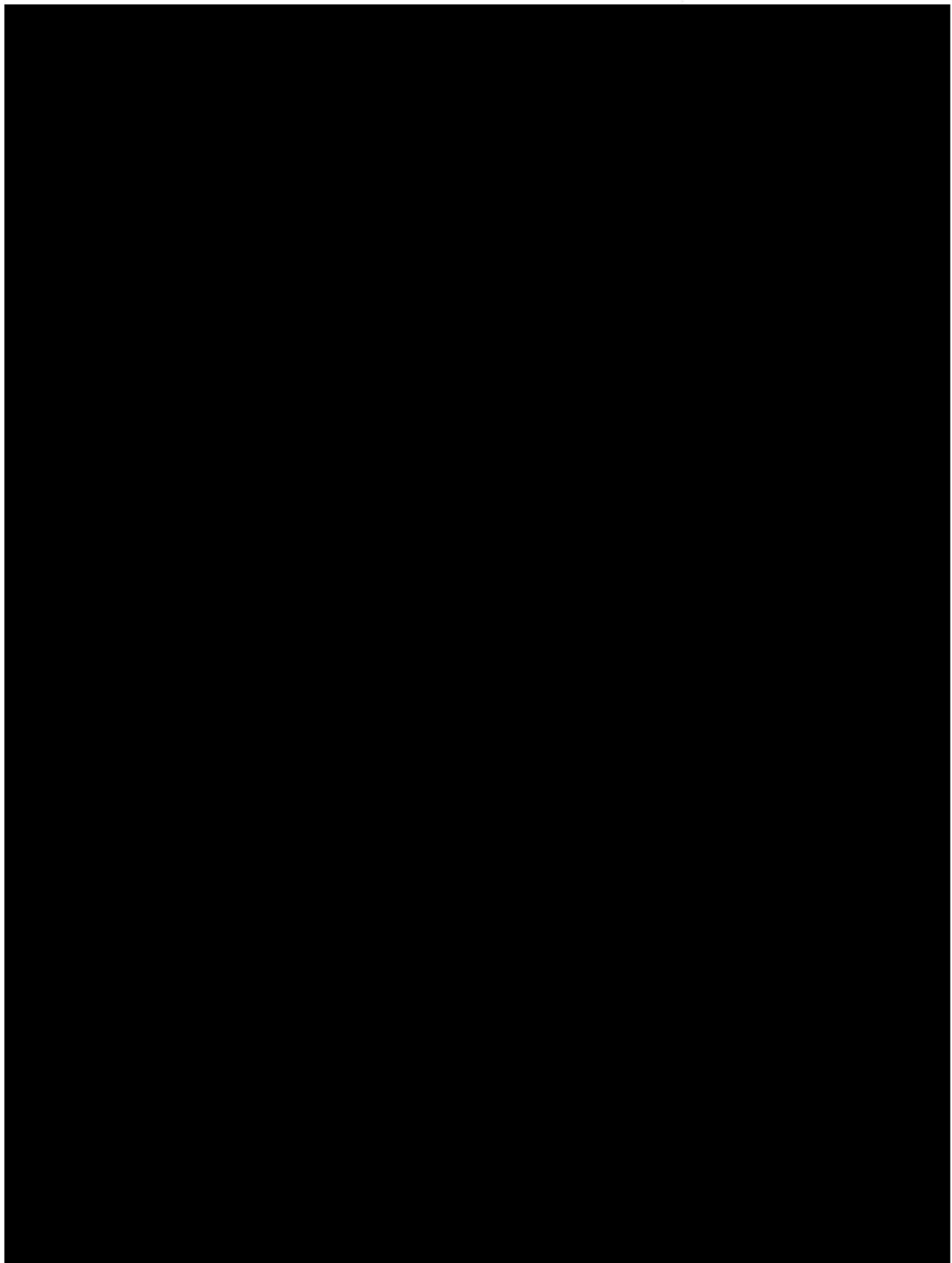
7.2. Landlord shall not enter the Leased Premises without Tenant's consent.

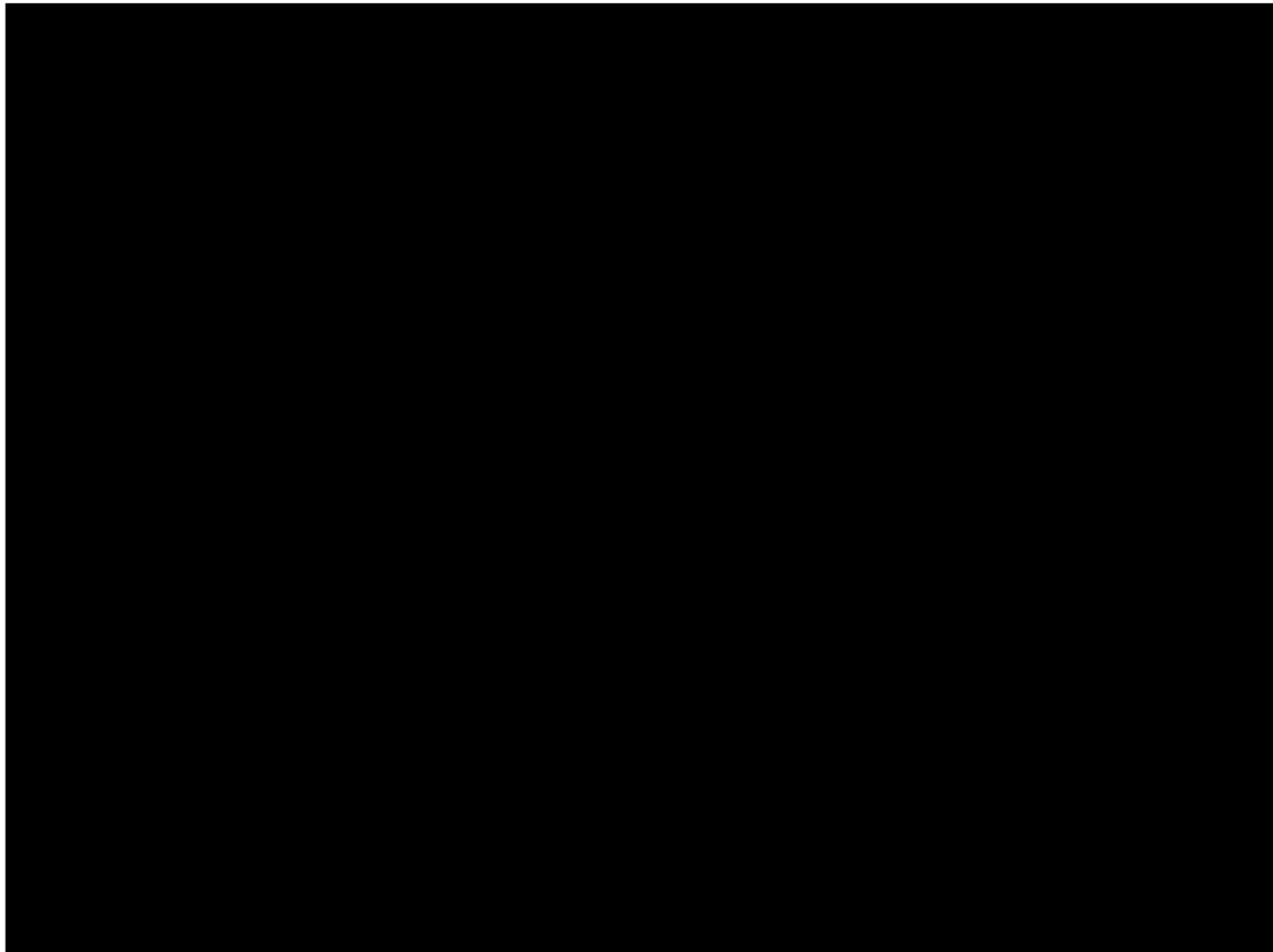
7.3. Landlord has been informed by Tenant and acknowledges that the construction and operation of the Facility and other activities related to the development, operation and decommissioning of the Facility may potentially result in some nuisance to Landlord and/or any other tenant or occupant of the Property and the Surrounding Property, such as visual impact and noise. Landlord hereby accepts such nuisance and waives any right that Landlord may have to object to such visual nuisance and Landlord releases Tenant from any claims Landlord and/or any other tenant or occupant of the Property may have with respect to any such nuisance.

7.4. Landlord acknowledges that Landlord has been afforded sufficient time to review and understand the terms and effects of this Agreement and to submit it to legal counsel of Landlord's choosing for review and advice. Landlord represents that the agreements and obligations herein are made voluntarily, knowingly and without duress.

8. TAXES AND UTILITIES.







9. INDEMNIFICATION.

9.1. Each Party (the “Indemnifying Party”) shall defend, indemnify and hold harmless the other Party and such other Party’s Related Persons (as defined below) (each, an “Indemnified Party”) from and against any and all Losses arising out of any third party (excluding Related Persons as defined below in Section 9.6) claim against the other Party for property damage, bodily injury or death caused by, arising out of, or resulting from the negligence, breach of contract, violation of Applicable Law, or willful misconduct of the Indemnifying Party or Persons acting at the direction of the Indemnifying Party in connection with this Agreement or incurred by such Indemnified Party. An Indemnified Party’s indemnity pursuant to this Section 9 shall be reduced in proportion to any negligence or willful misconduct of an Indemnified Party or its Related Persons.

9.2. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the “Notice of Claim”). Such Notice of Claim

shall specify all facts known to the Indemnified Party giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

9.3. The Indemnifying Party has the right, but not the obligation to assume the defense for the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of legal counsel and case expenses incurred by Indemnified Party in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Party has the right to hire its own, separate counsel to defend it, but the Indemnified Party shall be responsible for the reasonable costs of such separate counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim or admission of any liability by or on behalf of any Indemnified Party.

9.4. In no event shall an Indemnifying Party be liable to the Indemnified Party to the extent any Claim is caused by, arises from or contributed by the negligence or intentional misconduct of the Indemnified Party or its Related Person thereof.

9.5. In no event shall Tenant or its Related Persons be liable to Landlord for property damage or personal injuries to Landlord or its Related Persons attributable to risks of known and unknown dangers associated with normal day-to-day operation of the Facility.

9.6. As used herein the term "Related Person" shall mean any officers, directors, employees, invitees, affiliates, contractors, lessees, and sub-lessees of a Party, and each of their respective, principals, officers, employees, servants, agents, representatives, subcontractors, licensees, invitees, and/or guests.

9.7. This Section 9 shall survive expiration or earlier termination of this Agreement.

10. TENANT'S REPRESENTATIONS, WARRANTIES, AND COVENANTS. Tenant hereby represents, warrants, and covenants to Landlord that:

10.1. Tenant's Authority. Tenant has the power and authority to execute this Agreement and to perform its obligations hereunder. Each person signing this Agreement on behalf of Tenant is authorized to do so. When signed by Tenant, this Agreement constitutes a valid and binding agreement enforceable against Tenant in accordance with its terms.

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

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

10.4. Construction Liens. If any mechanic's lien or other lien or claim of lien are publicly recorded in the applicable land records' office for labor and services performed on, materials, supplies, or equipment furnished to the Property in connection with Tenant's use of the Leased Premises on the Property pursuant to this Agreement, Tenant shall, within sixty (60) days after it receives notice of the filing of such lien, remove, pay or cancel said lien or secure the payment of any such lien or liens by bond or deposit of moneys pursuant to Applicable Law. Tenant shall have the right, at all times and at its own cost and expense, to defend, on behalf of Tenant or Landlord, any action involving the cancellation, validity or removal of such lien or liens.

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

10.6. Litigation. No litigation is pending against Tenant, and, to the best of Tenant's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or which could adversely affect Tenant's obligations under this Agreement.

11. LANDLORD'S REPRESENTATIONS, WARRANTIES, AND COVENANTS.

Landlord hereby represents, warrants, and covenants as follow:

11.1. Landlord's Authority. Landlord is the fee owner of and has good and valid title to the Property and has the unrestricted right and authority to execute this Agreement and to grant to Tenant the rights granted hereunder. Each person signing this Agreement on behalf of Landlord is authorized to do so. When signed by Landlord, this Agreement constitutes a valid and binding Agreement enforceable against Landlord in accordance with its terms.

11.2. No Interference. Landlord's activities and any grant of rights Landlord makes to any person or entity, shall not, currently or prospectively, disturb or interfere with: the construction, installation, maintenance, or operation of the Facility on the Leased Premises or access over the Property to such Facility as provided for herein; any Site Activities; or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Landlord

shall not erect any structures, plants or other equipment, or enter into any third party agreements or amend or extend any existing agreements or undertake any other activities (a “Landlord Action”) that may: (i) interfere with Tenant’s right to install the Facility on any portion of the Leased Premises, (ii) if such Facility is designed to collect Solar Energy, overshadow or otherwise block or interfere with sunlight access to the Facility, (iii) cause a decrease in the output or efficiency of the Facility, or (iv) otherwise interfere with Tenant’s operations on the Leased Premises (each an “Interference”). Prior to undertaking a Landlord Action that may cause an Interference, Landlord shall consult with Tenant to confirm that such Landlord Action will not cause any Interference. If Tenant reasonably determines the Landlord Action could cause an Interference, then Landlord shall not be permitted to undertake such Landlord Action. Landlord shall not disturb or permit the disturbance of the subsurface of the Leased Premises such that may impact in any way the structural integrity or the operations and maintenance of the Facility.

11.3. Rights of Others; Encumbrances. Landlord has good, clear, record and marketable title to the Property subject to no liens, easements, options or other encumbrances other than the Existing Encumbrances. Landlord further represents that Tenant’s installation and operation of the Facility on the Leased Premises and the use of the Easements is not restricted by any rights of use, existing structures, private agreements or options affecting the Property. Landlord shall not allow any encumbrances against the Leased Premises other than Permitted Encumbrances. Landlord shall promptly pay all obligations secured by encumbrances against the Leased Premises (whether or not such encumbrances are Permitted Encumbrances) and shall not allow any default to occur under obligations secured by encumbrances against the Leased Premises. In lieu of paying amounts secured by encumbrances which are not Permitted Encumbrances, Landlord may provide a bond or other adequate security in accordance with Applicable Law and the reasonable requirements of Tenant. At Tenant’s request, Landlord shall obtain from holders of any encumbrances on the Property subordinations or non-disturbance agreements substantially in the form of Exhibit D (the “SNDA”). Within one hundred twenty (120) days after the Effective Date (which timing may be extended upon written approval from Tenant), Landlord shall obtain the SNDA from the holder of the mortgage encumbering the Property as of the Effective Date. If despite Landlord’s commercially reasonable and diligent efforts, Landlord is not able to obtain such SNDA, Landlord shall refinance such mortgage and obtain the SNDA from the new lender, which refinancing and SNDA must be accomplished prior to the Construction Start Date, time being of the essence. If Landlord is not able to obtain the SNDA and/or refinance the mortgage as stated above, Tenant may pay-off the mortgage and offset the costs of such payoff against Rent. Landlord shall immediately notify Tenant in writing if Landlord receives any notice of default from a holder of any mortgage or encumbrance and shall provide to Tenant copies of all such default notices received from the mortgagee or lien holder. Landlord shall permit Tenant, if Tenant so elects, in Tenant’s sole and unfettered discretion, to cure such Landlord’s default, and offset or deduct the costs of such cure from the amounts due from Tenant under this Agreement.

11.4. Requirements of Governmental Agencies and Setback Waiver. Landlord shall assist and fully cooperate with Tenant, at no out-of-pocket expense to Landlord, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews or any other approvals required for the financing, construction, installation, monitoring, replacement, maintenance, operation or removal of Facility, including execution of

applications and documents reasonably necessary for such approvals, and including participating in any appeals or regulatory proceedings respecting the Facility. Conditioned on Landlord being provided with prior written notice thereof, Landlord hereby consent to and authorize Tenant to sign and file on Landlord's behalf all applications and related documents required for Tenant to obtain any land use permits, building permits, environmental impact reviews or any other approvals necessary for the construction, operation or financing of the Facility on the Leased Premises. To the extent permitted by law, Landlord hereby waives enforcement of any applicable setback requirements respecting the Facility to be placed on or near the Leased Premises that are reasonably necessary, in Tenant's sole and absolute discretion, to carry out Tenant's power-generating activities on or near the Facility.

11.5. Hazardous Materials. Neither Landlord nor its Related Persons shall violate federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release, discharge, disposal, transportation or presence of any Hazardous Material on or under the Property or in any manner which may affect the Property. Landlord shall promptly notify Tenant if any such violation occurs. To the best of Landlord's actual knowledge, (i) no underground tanks are currently located or at any time in the past have been located on the Property or any portion thereof, (ii) no Hazardous Material has been generated, manufactured, transported, produced, used, treated, stored, released, disposed of or otherwise deposited in or on or allowed to emanate from the Property or any portion thereof other than as permitted by all health, safety and other laws (each, an "Environmental Law") that govern the same or are applicable thereto and (iii) there are no Hazardous Materials in, on or emanating from the Property or any portion thereof which may support a claim or cause of action under any Environmental Law. Landlord certifies it has never received any notice or other communication from any governmental authority alleging that the Property is or was in violation of any Environmental Law. Landlord shall indemnify and hold harmless Tenant from any actions, claims, damages or penalties arising from the violation of this paragraph and shall reimburse Tenant for any costs, including reasonable attorney fees, incurred by Tenant as a result of such actions, claims, damages or penalties.

11.6. No Litigation. No litigation is pending, and, to the best of Landlord's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or which could affect, the Property or Landlord's ability to perform its obligations under this Agreement. If Landlord learns that any such litigation, action, claim or proceeding is threatened or has been instituted, Landlord shall promptly deliver notice thereof to Tenant.

11.7. Title Insurance. Landlord agrees to execute and deliver to Tenant any documents reasonably required by the title insurance company and/or a Financing Party within ten (10) business days after presentation of said documents by Tenant to Landlord.

12. FINANCING PROVISIONS.

12.1. Financing Arrangements. Tenant may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing debt or equity financing for the Facility (each, a "Financing Party"). Further, Landlord acknowledges that Tenant may obtain construction financing for the Facility from a Financing Party and that Tenant may either obtain term financing secured by the Facility or sell or assign

the Facility to a Financing Party or may arrange other financing accommodations from one or more Financing Parties and may from time to time refinance, or exercise purchase options under, such transactions. Landlord acknowledges that in connection with such transactions Tenant may secure Tenant's obligations by, among other collateral, a mortgage or assignment of this Agreement and a first security interest in the Facility. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Landlord agrees as follows:

- 12.1.1. Consent to Sale and to Collateral Assignment. Landlord hereby consents to both the sale of the Facility to a Financing Party and the collateral assignment to the Financing Party of the Tenant's right, title and interest in and to this Agreement.
- 12.1.2. Rights of Financing Party. Notwithstanding any contrary term of this Agreement:
 - (A) Step-In Rights. The Financing Party, as owner of the Facility, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Tenant, any and all rights and remedies of Tenant under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Facility;
 - (B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Tenant hereunder or cause to be cured any default of Tenant hereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Tenant under this Agreement or (unless the Financing Party has succeeded to Tenant's interests under this Agreement or has otherwise assumed Tenant's obligations) to perform any act, duty or obligation of Tenant under this Agreement, but Landlord hereby gives it the option to do so;
 - (C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Facility by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Tenant to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give written notice to Landlord of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement; and
 - (D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with

respect to Tenant under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Landlord shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

12.1.3. Right to Cure.

(A) Cure Period. Landlord will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party a copy of Landlord's prior written notice to Tenant of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within sixty (60) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Tenant default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and diligently and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional sixty (60) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Tenant's assets and shall, within the applicable time periods described above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect. If the Financing Party notified Landlord in writing within such sixty (60) day period that it must foreclose on Tenant's Interest or otherwise take possession of Tenant's interest under this Agreement in order to cure the default (the "Foreclosure Notice"), Landlord shall not terminate this Agreement and shall permit the Financing Party a reasonable period of time, which shall be outlined in the Foreclosure Notice, as may be necessary for such Financing Party, with the exercise of due diligence, to foreclose or acquire Tenant's interest under this Agreement and to perform or cause to be performed all of the covenants and agreements of Tenant under this Agreement.

12.2. Financing Party a Third Party Beneficiary. Landlord agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 12.

12.3. Estoppel Certificates; Consent to Assignment. Landlord shall execute such estoppel certificates (certifying as to such matters as Tenant may reasonably request, including without limitation that no default by Tenant then exists under this Agreement, if such be the case) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Tenant, any transferee of Tenant or Financing Party may reasonably request from time to time. The failure of Landlord to deliver any estoppel certificate within fifteen (15) days after Tenant's written request therefor shall be conclusive evidence that (i) this Agreement is in full force and effect and has not been modified; (ii) any amounts payable by Tenant to Landlord have been paid through the date of such written request; (iii) there are no uncured defaults by Tenant; and (iv) the other certifications requested by Tenant in its estoppel or consent, are in fact, true and correct. Such consent may require Landlord to recognize a particular entity as a Financing Party hereunder and grant such Financing Party extended cure periods in the event of a Tenant default.

13. DEFAULTS AND REMEDIES.

13.1. Default. If a Party defaults in or otherwise fails to perform a material obligation under this Agreement (a "Default"), the non-defaulting Party shall not have the right to exercise any remedies hereunder if the Default is cured by the defaulting Party within forty five (45) days of receiving written notice of such Default specifying in detail the Default and the required remedy (a "Notice of Default"); provided, that if the nature of the Default requires, in the exercise of commercially reasonable diligence, more than sixty (60) days to cure, the non- defaulting Party shall not have the right to exercise any remedies hereunder as long as the defaulting Party commences performance of the cure within sixty (60) days, and thereafter completes such cure with commercially reasonable diligence. Further, if the Parties have a good faith dispute as to whether a payment is due hereunder, the alleged defaulting Party may deposit the amount in controversy in escrow with any reputable third party escrow, or may interplead the same, which amount shall remain undistributed and shall not accrue interest penalties, and no Default shall be deemed to have occurred, until final decision by a court of competent jurisdiction or upon agreement by the Parties. No such deposit shall constitute a waiver of the defaulting Party's right to institute legal action for recovery of such amounts.

13.2. Remedies. Except as qualified by Section 12 regarding Financing Party protections, should a Default remain uncured beyond the applicable cure periods, the non-defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity. Notwithstanding anything in this Agreement to the contrary or any rights or remedies Landlord might have at law or in equity, if any of the Facility is then located on the Leased Premises and Tenant fails to perform any of its obligations hereunder beyond applicable cure periods, Landlord shall be limited to pursuing damages and Landlord may not commence any action to terminate or cancel this Agreement. Notwithstanding anything in Section 13.1 to the contrary, Landlord agrees that any breach of this Agreement will cause Tenant substantial and irreparable injury and, therefore, in the event of any such breach, in addition to other remedies which may be available, Tenant shall have the right to specific performance and injunctive and other equitable relief, and shall have the right to seek such equitable relief prior to the expiration of any cure periods set forth in Section 13.1.

14. DISPUTE RESOLUTION.



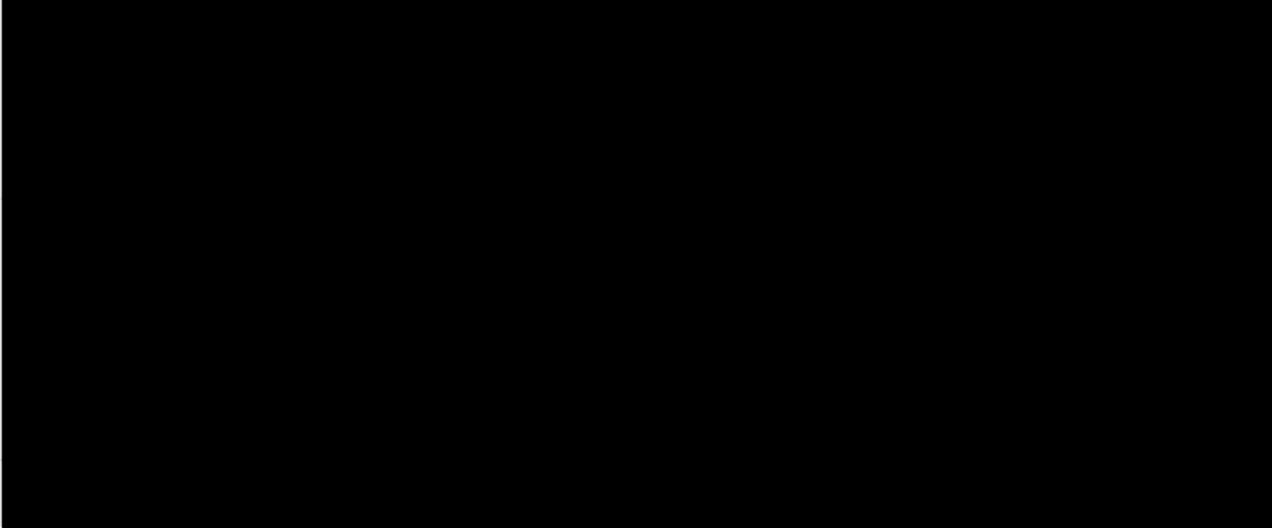
15. TERMINATION.

15.1. Tenant's Right to Terminate. Tenant shall have the right to terminate this Agreement upon thirty (30) days prior written notice to Landlord without cause: (i) prior to the Operations Period Commencement Date, as to all or any part of the Leased Premises, (ii) upon the occurrence of a Force Majeure Event that prevents Commercial Operation of all or part of the Facility and (iii) upon an act of condemnation that results in a taking of all or a portion of the Leased Premise such that Tenant is, in its sole judgment, no longer able or permitted to operate the Facility on the Leased Premises in a commercially viable manner.

15.2. Effect of Termination. Upon termination of this Agreement as to all of the Leased Premises, Tenant shall, as soon as practicable thereafter, remove above-ground and below-

ground (to a depth of three (3) feet below grade) equipment included in the Facility from the Leased Premises. All parts of the Leased Premises that are disturbed by Tenant shall be restored to a condition reasonably similar to its original condition as it existed upon the Effective Date, wear and tear and casualty excepted; provided, that Tenant shall not be required to replant any crops. If Tenant fails to remove such Facility within the Decommissioning Period, Landlord shall have the right to restore the Leased Premises and remove, or to cause removal of, any property owned by Tenant to such location as may be designated by Tenant in writing, and if Tenant fails to identify such location within thirty (30) days after notice of removal by Landlord, Landlord may remove such property to a warehouse of Landlord's choice and Tenant shall reimburse Landlord for reasonable documented out-of-pocket costs of such removal, restoration and storage. Tenant shall provide a decommissioning plan and bond with the governing jurisdiction to ensure the decommissioning of the Facility and which may, in the reasonable discretion of Landlord, also run to the benefit of Landlord and be covered under a separate decommissioning agreement, but which shall not require any additional bond amount or terms provided that Landlord is added to the original bond.

16. 



17. **MISCELLANEOUS.**

17.1. Force Majeure. If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of a Force Majeure Event, the affected Party, upon giving notice to the other Party, shall be excused from such performance to the extent of and for the duration of such prevention, restriction or interference, and the Term or any other time periods herein shall be extended for such period of time. The affected Party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance hereunder whenever such causes are removed. “Force Majeure Event” means any act or event that prevents or impacts the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence. Subject to the foregoing, Force Majeure may include the following acts or events:

(i) acts of God, including hurricanes, floods, lightning, earthquakes, blizzards and other extreme natural phenomena; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, pandemic, terrorist acts, or rebellion, declared state of emergency or public health emergency, government mandated quarantine or travel ban; (iv) acts of Governmental Authorities, including the Utility, and (v) strikes or labor disputes.

17.2. Confidentiality. To the fullest extent allowed by law, Landlord shall maintain in the strictest confidence, and Landlord shall require each Related Person of Landlord to maintain in the strictest confidence, for the sole benefit of Tenant, all information pertaining to the financial terms of or payments under this Agreement, Tenant's site or product design, methods of operation, methods of construction, power production or availability of the Facility, and the like, whether disclosed by Tenant or discovered by Landlord, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Landlord or any Related Person of Landlord, or (ii) was already known to Landlord at the time of disclosure and which Landlord is free to use or disclose without breach of any obligation to any person or entity. To the fullest extent permitted by law, Landlord shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Tenant.

17.3. Assignment. Tenant shall have the right without the prior consent of Landlord (but with notification to Landlord) to sell, convey, lease, assign, mortgage, pledge, collaterally assign or transfer (including granting co-easements, separate easements, sub-easements) this Agreement or any or all of Tenant's rights hereunder in and to all or any part of the Leased Premises or the Facility and, as to easements expressly provided for herein, the Property, and to sublicense the Leased Premises for Dual-Use Agricultural Operations pursuant to Section 2.2 hereof. Tenant shall remain liable for all of its obligations arising under this Agreement from and after the effective date of such transfer, unless and until such transferee assumes all of Tenant's obligations under this Agreement. Upon such transferee executing an agreement to assume all of Tenant's obligations under this Agreement, Tenant shall automatically be released from all of its obligations under this Agreement.

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

17.5. Memorandum/Notice of Lease; Recording. Landlord and Tenant shall execute in recordable form, and Tenant may then record, a notice or memorandum of this Agreement substantially in the form of Exhibit C attached hereto, incorporating only those non-substantive changes to the form as may be required by the applicable jurisdiction in which recording is sought and to reflect the terms of this Agreement. It shall be a condition to payment of rent that Landlord executes and notarizes a memorandum of lease substantially in the form of

Exhibit C hereto. Landlord hereby consents to the recordation of the interest of a transferee of Tenant in the Leased Premises. With respect to the Operations Period, upon request from Tenant, Landlord shall execute, in recordable form, and Tenant may then record a memorandum evidencing commencement of the Operations Period, as applicable; provided that the execution of such memorandum is not necessary for such Operations Period to be effective.

17.6. Notices. All notices or other communications required or permitted by this Agreement, shall be in writing and sent by certified mail (return receipt requested), courier or nationally recognized overnight delivery service to last known address of the intended recipient. Notices may also be sent by email for which the sending Party receives a confirmation that the email message has been completely transmitted without error (of which auto-replies are insufficient). Any notices delivered on any day that is not a business day, or after 5:00 p.m. local time on a business day, shall be deemed to have been delivered on the next business day. A Party may change its address for delivery of notices hereunder by notice given in accordance with this Section. Notices will be deemed given upon receipt or upon the failure to accept delivery addressed as follows:

LANDLORD:

Timothy J. Sena and Catherine Rude-Sena
P.O. Box [REDACTED]
Worthington, MA01098
Attn: Timothy J. Sena
Email: [REDACTED]

With a copy to: [REDACTED]

TENANT:

BlueWave
116 Huntington Avenue, Suite 601
Boston, MA 02116
Attn: Legal Notices
legal@bluewave.energy

With a copy to: CFO

17.7. Entire Agreement; Amendments. This Agreement, including all exhibits and appendixes hereto, contains the entire agreement of the Parties respecting the subject matter hereof, and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified or amended in writing, if the writing is signed by the Parties obligated under the amendment.

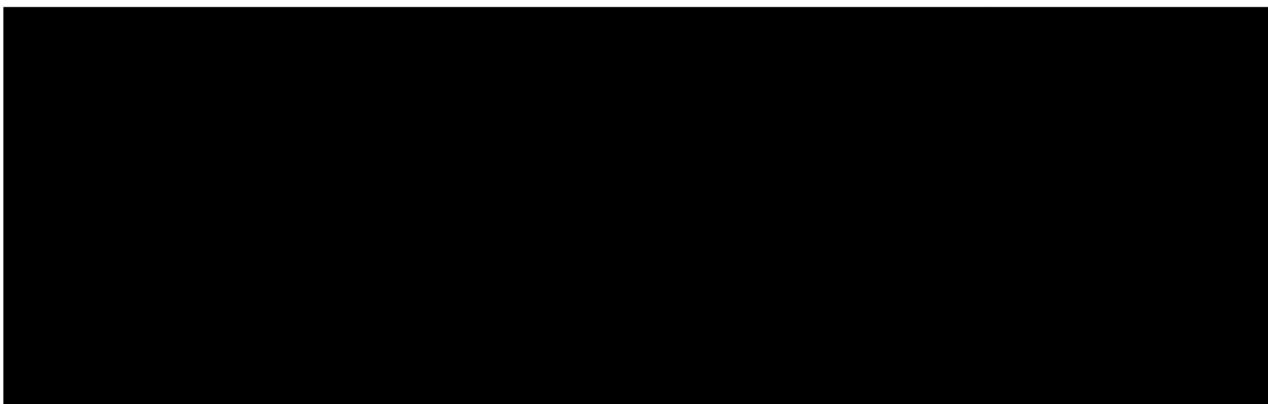
17.8. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the state where the Facility is located.

17.9. Severability. If any non-material part of this Agreement is held to be unenforceable, the rest of this Agreement will continue in effect. If a material provision is determined to be unenforceable and the Party which would have been benefited by the provision does not waive its unenforceability, then the Parties shall negotiate in good faith to amend this Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Parties benefits, the matter shall be resolved under Section 14 (regarding dispute resolution).

17.10. Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words “hereto”, “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word “person” shall include individuals; partnerships; corporate bodies (including to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word “including” shall be deemed to be followed by the words “without limitation”.

17.11. Cooperation. The Parties acknowledge that the performance of each Party’s obligations under this Agreement may often require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party as required, in its reasonable discretion, and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder. From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents, and assurances, reasonably requested by the other and shall take any other action consistent with the terms of this Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 17.11.

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



[Redacted]

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

17.15. Evidence of Authority. At either Party's request, the other Party shall provide a manager's certificate or a secretary's certificate, or resolutions of the member or manager or shareholders as evidence of the authority of such Party to enter into and execute this Agreement.

[Signatures Commence on Following Page]

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

LANDLORD:



Timothy J. Sena



Catherine Ruda-Sena

TENANT: BWC Wades Stream, LLC

By: *Ann DeKruyff*

Name: Ann DeKruyff

Title: Authorized Signatory

GLOSSARY OF TERMS

As used herein, the following terms shall have the meanings set forth beside them:

“Access Roads” is defined in Section 3.6.

“Agreement” means this Land Lease and Easement Agreement, as amended from time to time pursuant to the provisions hereof.

“Applicable Law” means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein.

“Commercial Operation” shall mean the occurrence of the Construction Operation Date.

“Commercial Operation Date” is defined on Exhibit B.

“Construction Start Date” is defined on Exhibit B.

“County” means the County in the State in which the Facility is located.

“Decommissioning Period” is defined in Section 4.5.

“Default” is defined in Section 13.1.

“Development Period” is defined in Sections 4.1 and 4.2.

“Dispute” is defined in Section 14.1.

“Dual-Use Agricultural Operations” is defined in Section 2.2.

“Dual-Use Solar Facility” is defined in Section 2.2.

“Easement(s)” shall mean those rights of Tenant set forth in Section 3.

“Effective Date” has the meaning assigned to such term in the preamble.

“Environmental Attributes” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Facility and its displacement of conventional energy generation, or any other entitlement (other than Tax Attributes) pursuant to any federal, state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time.

“Environmental Law” is defined in Section 11.5.

“Existing Encumbrances” mean the easements, liens and other matters of record approved by Tenant in its sole discretion and disclosed in the title commitment obtained by Tenant.

“Facility” means the solar powered electric generating facility, with or without a coupled battery energy storage system, and all related Solar Energy Generating Equipment and structures, and including but not limited to photovoltaic solar panels, mounting systems/canopies, inverters, transformers, integrators, equipment containers, energy storage, batteries, and electrical lines, cables and conduits required to generate, collect, distribute, store, and transmit electrical energy, and such additional utility lines, cables, conduits, transformers, wires, meters, monitoring equipment, and other necessary and convenient equipment and appurtenances common to such a facility to be installed by Tenant on the Leased Premises in accordance with this Agreement.

“Financing Party” is defined in Section 12.1.

“Force Majeure Event” is defined in Section 17.1.

“Foreclosure Notice” is defined in Section 12.1.

“Governmental Authority” means any international, national, federal, state, municipal, county, regional or local government, administrative, judicial or regulatory entity, and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

“Indemnified Party” is defined in Section 9.1.

“Indemnifying Party” is defined in Section 9.1.

“Interconnection Easement” means the easement granted pursuant to Section 3.1(d).

“Interference” is defined in Section 11.2.

“Hazardous Material” is defined in Section 10.5.

“Landlord” is defined in the preamble.

“Landlord’s Action” is defined in Section 11.2.

“Landlord Taxes” is defined in Section 8.1.

“Leased Premises” means the real property leased to Tenant pursuant to this Agreement, as described in Exhibit A-2, as such Exhibit may be amended pursuant to Section 4.2(d).

“Limited Construction Activities” means the specific construction activities undertaken by Tenant to preserve the Facility’s eligibility for Environmental Attributes and/or Tax Attributes or such other activities which are approved by Landlord.

“Losses” means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all attorney’s fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

“Notice of Claim” is defined in Section 9.2.

“Operations Period” is defined in Section 4.3.

“Operations Period Commencement Date” is defined in Section 4.3.

“Parties” means Landlord and Tenant and “Party” means either Landlord or Tenant.

“Permitted Encumbrances” mean the Existing Encumbrances and any additional mortgages granted by Landlord in accordance with Section 11.3 hereof.

“Permitted Use” means the use of the Leased Premises for the purposes set forth in Section 2, including the development, installation, construction, interconnection, maintenance, operation, repair, replacement and decommissioning of the Facility, including any coupled or standalone energy storage device(s) and for the production, delivery and sale of electricity, capacity, and ancillary services, and Environmental Attributes produced by or associated with, the Facility, and any other lawful related purpose.

“Pre-Construction Phase” is defined in Section 4.2.

“Property” means the real property described in Exhibit A-1, attached hereto, which includes the Leased Premises and the Easements.

“Related Person” is defined in Section 9.6.

“Renewable Energy Certificate” or “REC” means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy generating facility.

“Rent” means the payments to be made in accordance with Section 5 and Exhibit B.

“Site” is defined in Section 3.1(a).

“Site Activities” is defined in Section 2.1.

“Solar Easement” is defined in Section 3.1(a).

“Solar Energy” is defined in Section 2.1(a).

“Solar Energy Generating Equipment” is defined in Section 2.1(c).

“Surrounding Property” means the Property and all adjacent real property owned or controlled by Landlord or any affiliates.

“Tax Attributes” means investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and/or operation of the Facility or the

output generated by the Facility (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

“Tenant” has the meaning assigned to such term in the preamble.

“Tenant Taxes” is defined in Section 8.1.

“Term” means all of the Development Period, the Operations Period (including any extensions thereof), and the Decommissioning Period, as such periods are described in Section 4.

“Utility” is defined in Section 3.3.

EXHIBIT A-1

Legal Description of the Property

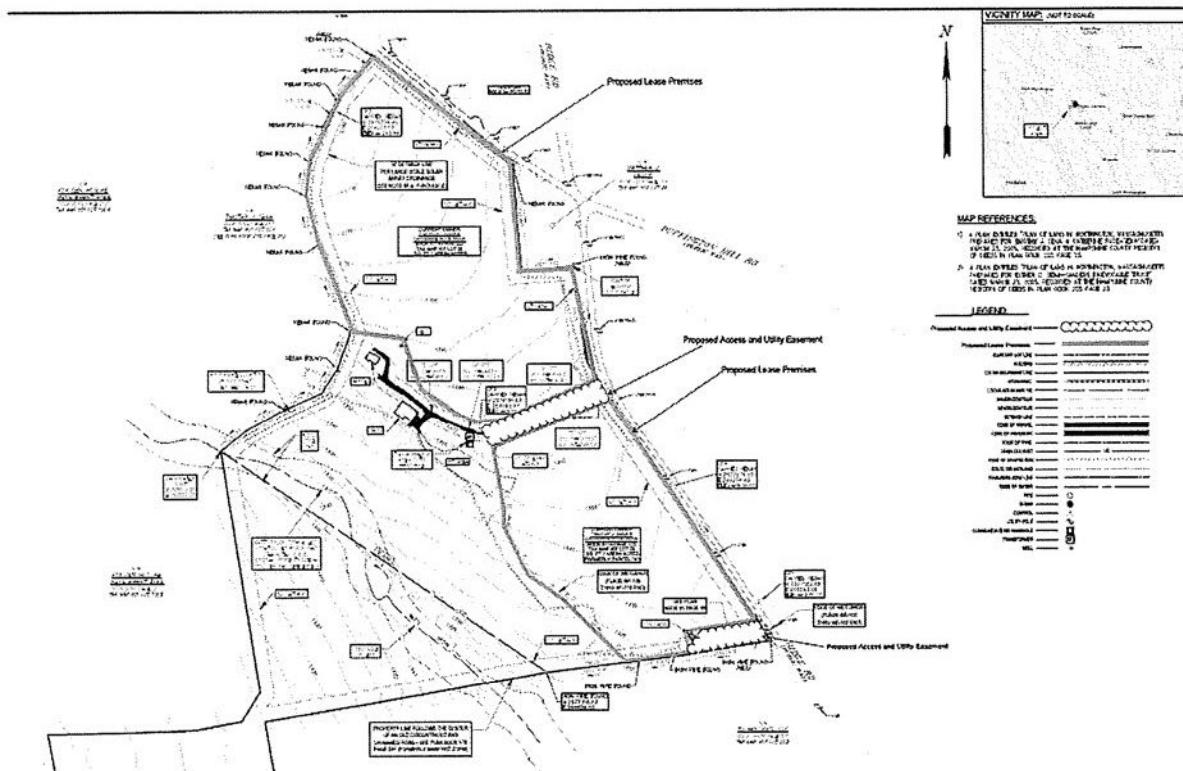
That certain tract or parcel of land situated on the Southerly side of Buffington Hill Road and the Westerly side of Ridge Road in said Worthington, more particularly bounded and described as follows:

Beginning at the northeasterly corner of the tract hereinafter described, said point being on the Westerly bound of said Ridge Road and at the Southeasterly corner of land now or formerly of one Taliaferro; thence Southerly along the Westerly bound of said Ridge Road to a discontinued town road at property now or formerly of one Hyde and Kirkam; thence Westerly along land of said Hyde, et al., to the center line of a brook; thence in a Northerly direction along the center line of said brook to the northerly bound of an old roadway; thence Easterly along the Northerly bound of said roadway to a point at which the woods end and the open field begins; thence in a Northerly direction along the edge of the woods to the Southerly bound of said Buffington Hill Road; thence Easterly along the Southerly bound of said Buffington Hill Road to property of said Taliaferro; thence Southerly along the Westerly bound of said Taliaferro to a point; thence Easterly along the Southerly bound of said Taliaferro to the place of beginning, the last two bounds running along a fence line. Containing approximately fifty (50) acres of land. The said Buffington Hill Road was formerly known as Lindsay Hill Road.

Being all and the same premises conveyed by deed of Timothy J. Sena and Catherine Rude-Sena, and Paul A. Sena, dated December 30, 2004 and recorded with the Hampshire County Registry of Deeds in Book 8119, Page 223

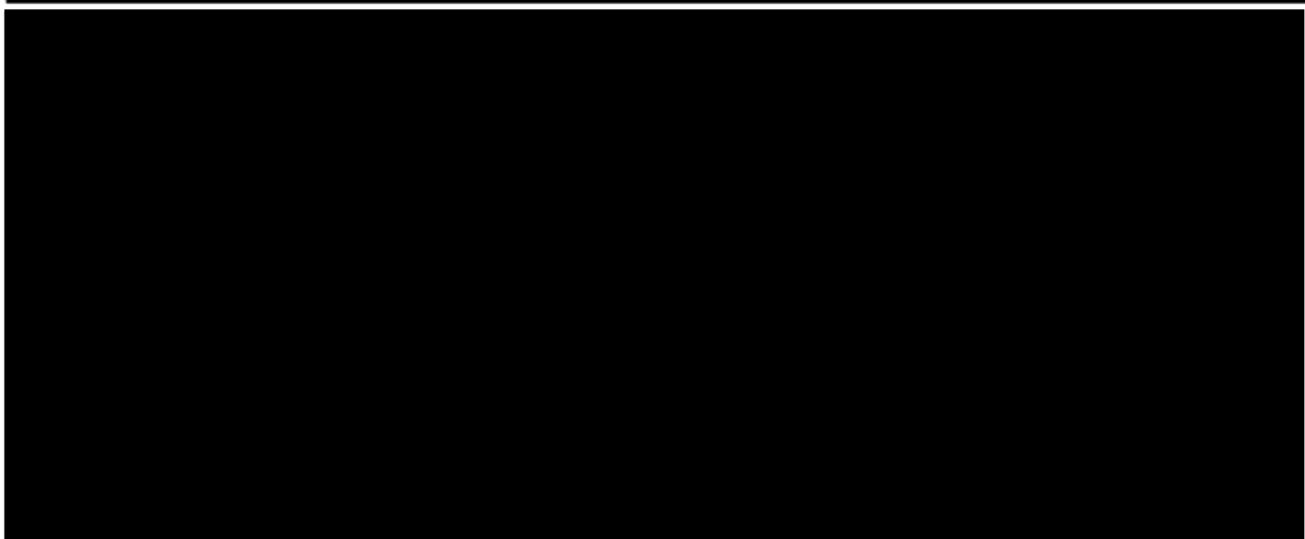
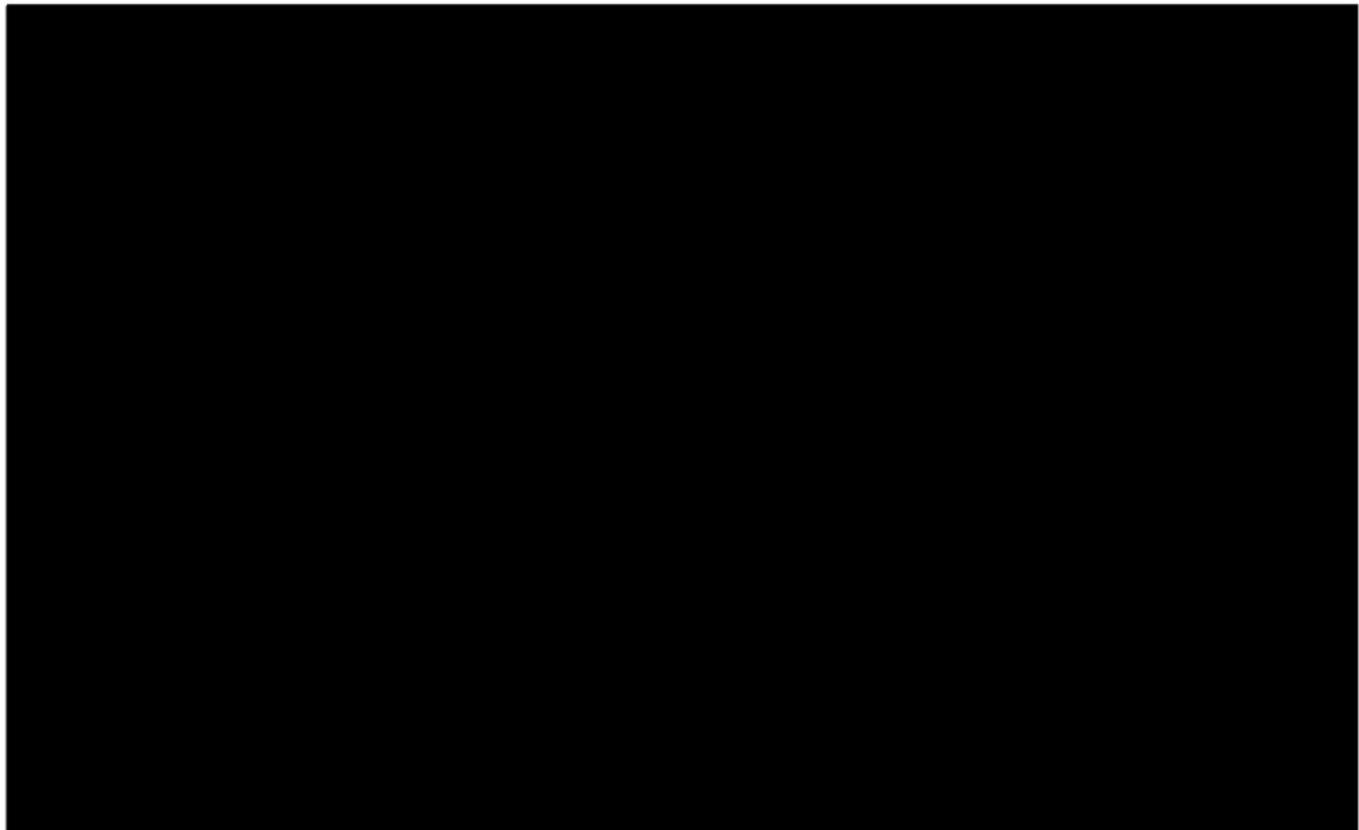
EXHIBIT A-2

Description of Leased Premises



The Parties agree to amend this Exhibit A-2 the legal description of the Leased Premises and Easements upon issuance of a plan pursuant to the Agreement.

EXHIBIT B
RENT PAYMENT SCHEDULE



Rent Payment Terms

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT C TO LEASE AGREEMENT
FORM OF MEMORANDUM OF LEASE/NOTICE OF LEASE
(attached behind)

After recording return to:
BlueWave
116 Huntington Avenue, Suite 601
Boston, MA 02116
Attn: Legal Department

NOTICE OF LEASE AND EASEMENTS

In accordance with the provisions of Massachusetts General Laws, Chapter 183, Section 4, as amended, notice is hereby given of the following described lease and easements:

Parties to the Land Lease and Easement Agreement (the “Lease”):

Landlord: Timothy J. Sena and Catherine Rude-Sena
P.O. Box 132
Worthington, MA01098
Attn: Timothy J. Sena

Tenant: BWC Wades Stream, LLC
c/o BlueWave
116 Huntington Avenue, Suite 601
Boston, MA 02116
(and its successors and/or assigns)

Property Description: The real property located at 190 Ridge Road, Worthington, MA 01098 and identified as Tax Parcel 407 0 28, described on the attached Exhibit A-1 (the “Property”). For Landlord’s title see Deed recorded with the Hampshire County Registry of Deeds in Book 8119 at Page 223.

Description of Leased Premises: A portion of the Property as described on the attached Exhibit A-2 where a solar photovoltaic electric generating facility, converting solar radiation emitted from the sun into electrical energy, and collecting, storing, and transmitting the electrical energy so converted will be installed and accessed for the Term of the Lease (the “Leased Premises”).

Date of Execution of the Lease: _____ (the “Effective Date”).

Term of Lease:

The Lease shall commence on the Effective Date and, unless terminated earlier pursuant to the provisions of the Lease, shall continue until 11:59 p.m. on the last day of the month in which the twentieth (20th) anniversary of the Operations Period Commencement Date occurs, as defined in the Lease, unless the Tenant exercises the options to renew.

Options to Renew:

Tenant shall have the right to extend the Term of the Lease for up to four (4) additional five (5) year terms.

Decommissioning Period:

The Lease also contains the Decommissioning Period, which shall commence upon expiration of the Term and any extensions thereto and shall continue for a period of 180 days, provided that if such 180 day term begins or ends within the months of December, January, February, March, or April, the Decommissioning Period shall be extended to the next occurring July 31.

Easements.

- (a) Under the Lease, Landlord granted the easements (the “Easements”) to Tenant described in Exhibit B across and burdening the Property.
- (b) Landlord’s grant of Easements in the Lease shall commence on the Effective Date and end upon termination of the Term.

Ownership of the Facility.

Landlord shall have no right, title or interest in the Facility (as defined in the Lease) or any component thereof and Tenant shall be the exclusive owner thereof.

Miscellaneous

1. This Notice of Lease may be executed in multiple counterparts, each of which shall be deemed an original and all of which, together, shall constitute one and the same instrument.
2. This Notice of Lease does not describe or refer to all of the terms or conditions contained in the actual Lease and nothing contained herein shall serve to modify or amend the terms of the actual Lease. In the event of any inconsistency between the provisions of the Lease and the provisions of this Notice, the provisions of the Lease shall control.

3. Any capitalized term not defined herein shall have the definition ascribed to it in the Lease.

EXECUTED as a sealed instrument on as of _____, 2024.

LANDLORD:

Timothy J. Sena

Catherine Rude-Sena

STATE/COMMONWEALTH OF _____
____ County, ss.

On this _____ day of _____, 2024, before me, the undersigned Notary Public, personally appeared the above-named Timothy J. Sena and Catherine Rude-Sena proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by them voluntarily for its stated purpose as their free act and deed.

Notary Public
My Commission Expires:

TENANT:
BWC Wades Stream, LLC

By: _____
Printed Name: _____
Title: _____

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this _____ day of _____, 2024, before me, the undersigned Notary Public, personally appeared the above-named _____, Authorized Signatory of BWC Wades Stream, LLC proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose as Authorized Signatory on behalf of BWC Wades Stream, LLC as its free act and deed.

Notary Public
My Commission Expires:

EXHIBIT A-1

Property

Property Address: 190 Ridge Road, Worthington, MA 01098

Legal Description of the Property

That certain tract or parcel of land situated on the Southerly side of Buffington Hill Road and the Westerly side of Ridge Road in said Worthington, more particularly bounded and described as follows:

Beginning at the northeasterly corner of the tract hereinafter described, said point being on the Westerly bound of said Ridge Road and at the Southeasterly corner of land now or formerly of one Taliaferro; thence Southerly along the Westerly bound of said Ridge Road to a discontinued town road at property now or formerly of one Hyde and Kirkam; thence Westerly along land of said Hyde, et al., to the center line of a brook; thence in a Northerly direction along the center line of said brook to the northerly bound of an old roadway; thence Easterly along the Northerly bound of said roadway to a point at which the woods end and the open field begins; thence in a Northerly direction along the edge of the woods to the Southerly bound of said Buffington Hill Road; thence Easterly along the Southerly bound of said Buffington Hill Road to property of said Taliaferro; thence Southerly along the Westerly bound of said Taliaferro to a point; thence Easterly along the Southerly bound of said Taliaferro to the place of beginning, the last two bounds running along a fence line. Containing approximately fifty (50) acres of land. The said Buffington Hill Road was formerly known as Lindsay Hill Road.

Being all and the same premises conveyed by deed of Timothy J. Sena and Catherine Rude-Sena, and Paul A. Sena, dated December 30, 2004 and recorded with the Hampshire County Registry of Deeds in Book 8119, Page 223.

END OF DESCRIPTION

EXHIBIT A-2
LEASE AND EASEMENT AREA DESCRIPTION

The Leased Premises and Easement Area shall mean the portion of the Property generally outlined as follows:

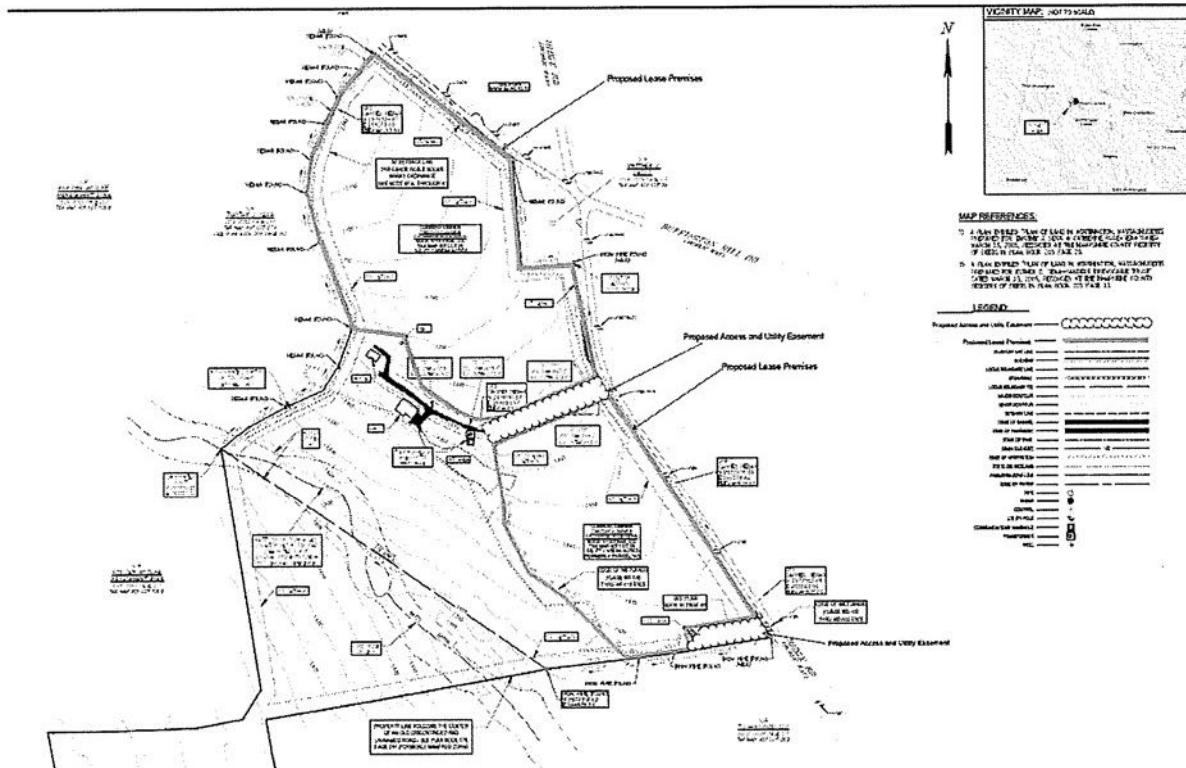


EXHIBIT B

3. GRANT OF EASEMENTS.

3.1 Landlord hereby grants, conveys and warrants to Tenant, and Tenant hereby accepts the following easements upon, over, across, under and burdening the Property and any Surrounding Property at all times during the Term:

(a) Solar Easement; Non-Obstruction. An exclusive easement pursuant to Applicable Law, on, over and across the Property and Surrounding Property for the purpose of ensuring access to direct sunlight to any solar panels on the Leased Premises and an exclusive easement prohibiting any obstruction of direct sunlight throughout the entire Property to and for the benefit of the area existing horizontally three hundred and sixty degrees (360°) from any point where any solar panel is or may be located at any time from time to time (each such point referred to as a “Site”) and for a distance from each Site to the boundaries of the Property and any Surrounding Property, together vertically through all space located above the surface of the Property, that is, one hundred eighty degrees (180°) or such greater number or numbers of degrees as may be necessary to extend from each point on and along a line drawn along the surface from each point along the exterior boundary of the Property and Surrounding Property through each Site to each point and on and along such line to the opposite exterior boundary of the Property and any Surrounding Property (collectively, the “Solar Easement”);

(b) Operating Easement. An exclusive easement over the Property and any Surrounding Property for all activities occurring on the Leased Premises, in the Solar Easement, Access Easement or the Utility Easement necessary to develop and operate the Facility, including but not limited to, electromagnetic, audio, visual, view, light, noise, vibration, electrical, radio interference, or other effects attributable to the Facility or any Site Activities;

(c) Access Easement. An exclusive easement to access the Facility and the Leased Premises for equipment access and for vehicular and pedestrian ingress to and egress, from the Facility (whether located on the Property, on adjacent property or elsewhere) over and across the Property and Surrounding Property by means of roads and lanes thereon if existing or later constructed by Landlord, or otherwise by such route or routes as Tenant may construct from time to time, and which roads and lanes must connect to a public way, including over any areas specifically identified on Exhibit A-2 hereto (“Access Easement”);

(d) Utility Easement. An exclusive easement to construct, install, operate, maintain, relocate, remove, repair electric service infrastructure, poles, towers, foundations, switchgear, cabinets, transformers, and other equipment necessary and convenient to interconnect the Facility to the local electric distribution system and for transmitting electric current and communications and intelligence, which may be overhead or underground, including over any areas specifically identified on Exhibit A-2 hereto (“Utility Easement”); and

(e) Vegetation Maintenance Easement. (i) An easement to enter upon the Property and trim and cut vegetation and trees along the access and utility easements which may overhang or interfere with such access and utility easements, and (ii) an easement to trim existing trees and vegetation on the Property that interfere with the Solar Easement from any angle upon,

across and over the Leased Premises. The easement granted in this subsection (e) shall be exercised after providing Landlord with at least five (5) Business Days prior written notice of the Tenant's need to enter the Property.

(f) Temporary Construction Easement. A non-exclusive easement to be located at a mutually acceptable location on a portion of the Property and Surrounding Property to be used for temporary (i) storage and staging of tools, materials and equipment, (ii) construction laydown, (iii) parking of construction crew vehicles and temporary construction trailers, (iv) vehicular and pedestrian access and access for rigging and material handling, and (v) other facilities reasonably necessary to construct, erect, install, expand, modify or remove the Facility. In the event that Tenant disturbs the surface of the Property or Surrounding Property in connection with the exercise of its rights under this easement, Tenant will, at its sole expense, restore the surface of such areas so-disturbed to substantially the same or better condition as existed prior to such disturbance, provided, however, that Tenant shall not be required to restore any vegetation.

(g) To the extent that Landlord holds or has the right to use any access, utility, transmission, water, stormwater or other easements, rights of way or licenses over lands in the general vicinity of the Property or the Surrounding Property (the "Landlord Easements") on or after the date of this Agreement, and such Landlord Easements are or could be used for the benefit of the Property, then the same are hereby included in this Agreement, and Tenant shall be entitled to use such Landlord Easements, if such use is permitted under Landlord Easements and provided that such use does not interfere with use of the same by Landlord or other parties having rights therein, and; provided that such use does not cause any claims against Landlord relating to Tenant's use thereof. Upon the request of Tenant, Landlord shall grant (in recordable form and containing such terms and provisions as may reasonably be requested by Tenant and Landlord), for no additional consideration, one or more sub-easements of Landlord Easements to run concurrently with the Term (or for such shorter period as provided in Landlord Easement).

(h) Other Easements. All other easements reasonably necessary to accomplish the activities permitted by this Agreement, including but not limited to the Permitted Uses and those activities described in Section 2. During the Development Period, the boundaries of the easements granted in Sections 3.1(c) and 3.1(d) may be determined by means of a plan or survey prepared by Tenant, and such plan or survey shall then define the easement locations. Exhibit A-2 shall be amended with such plan or survey.

3.2 Landlord's grant of easements in Section 3.1(a) through (e) shall commence on the Effective Date and continue throughout the Term and any extensions of the Term, and for the time necessary and convenient to perform any decommissioning, if such obligations extend beyond the Term. Landlord's grant of easement in Section 3.1(f) shall commence on the Effective Date and shall continue through the Construction Phase.

3.3 If required by the local electric utility ("Utility"), Landlord shall grant to the Utility an easement and right to construct, operate, maintain, reconstruct, relocate, remove, and/or repair the electric utility service infrastructure and associated wires, lines and poles and other infrastructure necessary and convenient to interconnect the Facility to the Utility electrical distribution system, the location of which will be determined by the Utility prior to the Commercial Operation Date. If required by the Utility, Landlord shall enter into a recordable easement instrument on the Utility's form.

3.4 All easements shall burden the Property and shall run with the land for the benefit of Tenant, its successors and assigns (including any Financing Parties and any other permitted assignees of Tenant's rights under the Agreement), and their respective agents, contractors, subcontractors and licensees.

Select Definitions:

“Surrounding Property” means the Property and all adjacent real property owned or controlled by Landlord or any affiliates.

A copy of the Lease is on file with the Tenant, at its address set forth on the first page hereof.

EXHIBIT D TO LEASE AGREEMENT

FORM OF SNDA

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT (this "Agreement") is made as of this _____ day of _____, 2024, by and among the United States of America, acting through the Farm Service Agency, United States Department of Agriculture, a duly organized lender, with the office responsible for this region located at 195 Russell Street, Suite B5, Hadley, MA 01035 ("Lender"), Timothy J. Sena and Catherine Rude-Sena ("Landlord"), and BWC Wades Stream, LLC ("Tenant").

WITNESSETH

WHEREAS, Tenant and Landlord have entered into a Lease Agreement dated _____, 2024, (the "Lease") covering the premises located at 190 Ridge Road, Worthington, MA (the "Premises"), notice of which is recorded with the Hampshire County Registry of Deeds (the "Registry") (herewith or in Book _____, Page _____,) (being the property more particularly described in Exhibit A attached hereto and incorporated herein) pursuant to which Tenant has installed or will install on the Premises a photovoltaic facility for the generation of electricity from solar energy (the "Solar Facility"); and

WHEREAS, Lender is the mortgagee pursuant to a Mortgage and Security Agreement dated May 13, 2011 (the "Mortgage") encumbering, the Premises which is recorded with the Hampshire County Registry of Deeds in Book 10548 page 20; and

WHEREAS, Lender, Tenant, and Landlord wish to set forth respective rights of each party;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other valuable consideration, the parties hereto covenant and agree as follows:

1. The Lease and any extensions, renewals, replacements or modifications thereof, and all of the right, title and interest of Tenant thereunder in and to the Premises are and shall be subject and subordinate to the Mortgage and to all of the terms and conditions contained therein, and to any advances, renewals, modifications, replacements, consolidations, amendments, substitutions and extensions thereof.

2. Lender agrees that the Lease will not trigger the due upon transfer clause of the Mortgage, or otherwise create an event of default under the Mortgage and in the event Lender comes into possession of or acquires title to the Premises as a result of the foreclosure, or other enforcement of the Mortgage, or as a result of any other means, Lender agrees that Lender will recognize Tenant and will not disturb Tenant or Tenant's financing parties in their possession of the Premises or their rights in the Lease for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without any further action by

Landlord, the termination of the Lease, and the Lease will continue in full force and effect as a direct agreement between Lender and Tenant.

3. The Solar Facility shall not be, or be deemed to be, a part of or an accession or addition to or a fixture on the Premises even though the Solar Facility is installed on the Premises; nor shall the Solar Facility be moved from the Premises by the Lender unless Tenant's prior written consent to such move has been obtained.

4. Lender waives any and all right, title and interest in the Solar Facility and shall not acquire any such right title or interest by virtue of the installation of the Solar Facility on the Premises. The undersigned Lender further waives any right to seize, or to claim any interest, whatsoever in the Solar Facility on account of any claim or right the undersigned may have against any person, including, without limitation, any claim or right the undersigned may have or assert against Landlord, by foreclosure or otherwise.

5. Tenant may at any time, at its option, enter upon the Premises and inspect, maintain, remove or repair the Solar Facility to the extent provided in the Lease.

6. When sending to Landlord any notice of impending or actual foreclosure of the Premises, the undersigned Lender shall concurrently provide Tenant a copy of the same.

7. Tenant and Lender agree that if the interests of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or any other manner, or shall be conveyed thereafter by Lender or shall be conveyed pursuant to a foreclosure sale of the Premises, Tenant shall be bound to Lender and Lender shall be bound to Tenant under all of the terms, covenants and conditions of the Lease for the balance of the time thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the landlord under the Lease and Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises.

8. This Agreement shall bind and inure to the benefit of the parties hereto, their successors and assigns. As used herein the term "Tenant" shall include Tenant, its successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure; and the word "Lender" shall include the Lender herein specifically named and any of its successors, participants and assigns, including anyone who shall have succeeded to Landlord's interest in the Premises by, or through, Lender foreclosure of the Mortgage.

9. All notices, consents and other communications pursuant to the provisions of this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable commercial overnight carrier that provides a receipt, or by facsimile with confirmation of transmission, and shall be deemed given when postmarked and addressed as follows:

If to Lender:

United States of America,
acting through the Farm Service Agency,
United States Department of Agriculture
195 Russell Street, Suite B5
Hadley, MA 01035

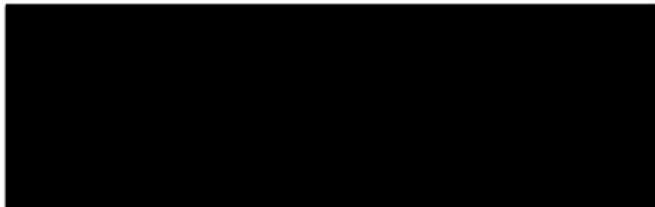
If to Tenant:

BlueWave
116 Huntington Avenue, Suite 601
Boston, MA 02116
Attn: Legal Notices
legal@bluewave.energy

If to Landlord:

Timothy J. Sena and Catherine Rude-Sena
P.O. Box [REDACTED]
Worthington, MA 01098
Attn: Timothy J. Sena
Email: [REDACTED]

With a copy to:



or to such other address as shall from time to time have been designated by written notice by such party to the other parties as herein provided.

10. This Agreement may not be modified orally or in any manner other than by agreement, in writing, signed by the parties hereto. This Agreement may be executed in counterparts, each of which shall be deemed an original, and such counterparts taken together shall constitute but one agreement. This Agreement shall be governed by the laws of the state or commonwealth where the Premises are located.

[This Page Ends Here – Signature Page to SNDA Follows]

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals the day and year first written above.

TENANT: BWC Wades Stream, LLC

By: _____
Printed Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this _____ day of _____, 202_____, before me, the undersigned Notary Public, personally appeared the above-named _____, Authorized Signatory of _____ proved to me by satisfactory evidence of identification, being _____ (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose as Authorized Signatory on behalf of _____.

Notary Public
My Commission Expires:

LANDLORD: Timothy J. Sena

By: _____
Printed Name:
Title:

STATE/COMMONWEALTH OF _____
____ County, ss.

On this _____ day of _____, 202_____, before me, the undersigned Notary Public, personally appeared the above-named _____, the _____ of _____ proved to me by satisfactory evidence of identification, being _____ (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose on behalf of _____.

Notary Public
My Commission Expires:

LANDLORD: Catherine Rude-Sena

By: _____

Printed Name:

Title:

STATE/COMMONWEALTH OF _____
____ County, ss.

On this _____ day of _____, 202_____, before me, the undersigned Notary Public, personally appeared the above-named _____, the _____ of _____ proved to me by satisfactory evidence of identification, being _____ (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose on behalf of _____.

Notary Public
My Commission Expires:

LENDER:

By: _____
Printed Name:
Title:

STATE/COMMONWEALTH OF _____
____ County, ss.

On this _____ day of _____, 202_____, before me, the undersigned Notary Public, personally appeared the above-named _____, the _____ of _____ proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose on behalf of _____.

Notary Public
My Commission Expires:

BLUEWAVE

Attachment B: Certificate of Liability Insurance



CERTIFICATE OF LIABILITY INSURANCE

12/14/2025

DATE (MM/DD/YYYY)

9/4/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Lockton Companies, LLC DBA Lockton Insurance Brokers, LLC in CA CA license #0F15767 8110 E Union Ave., Ste. 100 Denver CO 80237 denver-certs@lockton.com	CONTACT NAME:	
		PHONE (A/C, No. Ext):	FAX (A/C, No.):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A : Travelers Property Casualty Company of America	
INSURED 1518913	BWC Wades Stream, LLC 116 Huntington Avenue, Ste. 601 Boston MA 02116	INSURER B : Twin City Fire Insurance Company	
		INSURER C : The Travelers Indemnity Company	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER: 22361795

REVISION NUMBER: XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE			ADDL INSD	SUBR WVD	POLICY NUMBER		POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS								
A	COMMERCIAL GENERAL LIABILITY			N	N	DT-CO-B0001860-TIL-25		4/12/2025	4/12/2026	EACH OCCURRENCE	\$ 1,000,000							
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR									DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000							
	Ded. \$5,000									MED EXP (Any one person)	\$ 5,000							
	GEN'L AGGREGATE LIMIT APPLIES PER:									PERSONAL & ADV INJURY	\$ 1,000,000							
	POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC									GENERAL AGGREGATE	\$ 2,000,000							
	OTHER:									PRODUCTS - COMP/OP AGG	\$ 2,000,000							
											\$							
C	AUTOMOBILE LIABILITY			N	N	BA-B0006702-25-26-G		4/12/2025	4/12/2026	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000							
	ANY AUTO									BODILY INJURY (Per person)	\$ XXXXXXXX							
	OWNED AUTOS ONLY									BODILY INJURY (Per accident)	\$ XXXXXXXX							
	HIRED AUTOS ONLY									PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX							
	<input checked="" type="checkbox"/> SCHEDULED AUTOS										\$ XXXXXXXX							
	<input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY										\$ XXXXXXXX							
A	UMBRELLA LIAB			N	N	CUP-B0008013-25-26		4/12/2025	4/12/2026	EACH OCCURRENCE	\$ 10,000,000							
	EXCESS LIAB									AGGREGATE	\$ 10,000,000							
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000										\$ XXXXXXXX							
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			Y / N	N / A	72 WE AU7ZHS		12/14/2024	12/14/2025	X PER STATUTE	OTH-ER							
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)									E.L. EACH ACCIDENT	\$ 1,000,000							
	If yes, describe under DESCRIPTION OF OPERATIONS below									E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000							
										E.L. DISEASE - POLICY LIMIT	\$ 1,000,000							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Worthington Ridge Rd C; 190 Ridge Rd, Worthington MA.

CERTIFICATE HOLDER

CANCELLATION

22361795

Town of Worthington
160 Huntington Rd,
Worthington MA 01098

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PRESENTATIVE