BESS PROJECT GROUND LEASE AGREEMENT

between

THE CITY OF HARRISONBURG, VIRGINIA,
THE HARRISONBURG ELECTRIC COMMISSION

a Virginia municipal corporation, as Owner,

and

VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION NO. 1,

a Virginia nonstock corporation, as Tenant

dated the _____ day of _____, 20__

BESS PROJECT GROUND LEASE AGREEMENT

THIS BESS PROJECT GROUND LEASE AGREEMENT (this "**Lease Agreement**") is made and entered into as of the Effective Date, between the Owner ("**Owner**") and Tenant ("**Tenant**"), who are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**," designated in the Basic Terms below:

Basic Terms

Effective Date:	_____ ____, 202_
Owner:	**THE CITY OF HARRISONBURG, VIRGINIA,** **THE HARRISONBURG ELECTRIC COMMISSION**, a Virginia municipal corporation.
Owner Address:	89 West Bruce Street Harrisonburg, Virginia 22801-3699 Attention: Brian D. O'Dell
Tenant :	**VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION NO. 1**, a Virginia nonstock corporation ("VMEA")
Tenant Address:	89 West Bruce Street Harrisonburg, Virginia 22801-3699 Attention: Brian D. O'Dell
Property:	The land more particularly described in Schedule A, attached hereto, including any easements and rights-of-way benefiting such real property (the "Property"). Owner and Tenant stipulate and agree that the Property (as specifically described in Schedule A) contains approximately 11,000 square feet +/-, subject to any adjustments by mutual agreement in accordance with Section 2.1 hereto.
Development and Construction Term Base Rent:	Development and Construction Term Base Rent, payable in advance during the Development and Construction Term as provided in Article 3 below, shall be $1 for the Development and Construction Term.
Operations Term Base Rent:	Operations Term Base Rent, payable annually in advance during the Operations Term as provided in Article 3 below, shall be $1 per year.
Decommissioning Term Rent	There shall be no Rent due during the Decommissioning Term.

ARTICLE 1. DEFINITIONS

Section 1.1 Defined Terms. When used in this Lease Agreement, the following capitalized terms shall have the definitions indicated:

"**Additional Easement**" means the term as described in Section 4.1.

"**Affiliate**" means any Person (i) who, directly or indirectly (including through one or more intermediaries), holds an equity interest in Tenant (a "**Parent Company**"), or (ii) in which Tenant or a Parent Company, directly or indirectly (including through one or more intermediaries) holds an equity interest. The term "Affiliate" also includes any Person that directly or indirectly controls, or is under common control with, or is controlled by, Tenant. As used in this definition, "control" (including, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or other ownership interests, by contract or otherwise); any Person which owns directly or indirectly fifty-one percent (51%) or more of the securities having ordinary voting power for the election of directors or other governing body of an entity will be deemed to control such entity.

"**Lease Agreement**" means this BESS Project Ground Lease Agreement.

"**Assignee**" means any Person to which Tenant may assign its interest in this Lease Agreement or in the Project pursuant to the terms of Section 9.1.

"**Award**" means the term as described in Section 10.5.

"**Base Ground Rent**" means, collectively, the Development and Construction Term Base Rent and the Operations Term Base Rent.

"BESS" means the Battery Energy Storage System.

"BESS Agreement" means the Tolling Agreement between RWE Clean Energy DCE Development, LLC, a Delaware limited liability company and VMEA dated as of _____, 2025.

"BESS Sublease" means the term as described in Section 10.22(a).

"**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks are required or permitted to be closed in the Commonwealth of Virginia.

"**Claim**" or "**Claims**" means the term as described in Section 10.3(a).

"**CERCLA**" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

"**Commercial Operation Date**" means the date on which Tenant countersigns the Commercial Operation Certificate in accordance with Section 3.3(a) of the BESS Agreement.

"**Confidential Information**" means the term as described in Section 7.7.

"**Decommissioning Term**" means the term defined in Section 2.2(c).

"**Development and Construction Term**" means the term defined in Section 2.2(a).

"**Development and Construction Term Base Rent**" means the amount as calculated pursuant to the Basic Terms.

"**Effective Date**" means the date, described in the Basic Terms, upon which this Lease Agreement becomes effective.

"**Electric Interconnection Facilities**" means a line or lines of towers or poles, with such wires and cables as from time to time are suspended therefrom, overhead and/or underground wires and cables, for the collection or transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms, conduits and other appliances and fixtures for use in connection with said towers, poles, wires and cables on, along and in the Property; and one or more Substations or interconnection or switching facilities, together with all related or appropriate roads and rights of way, on, along, across and in the Property.

"**Electronic Transfer**" means a transfer of good and immediately available funds, whether by wire transfer, ACH payment, or other, similar method.

"**Encumbrances**" means any liens, encumbrances, covenants, conditions, reservations, restrictions, easements, leases, licenses, occupancies, tenancies, mineral rights, water rights or other matters affecting, relating to or encumbering the Property or any portion thereof.

"**Environmental Laws**" means any and all Laws relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Materials. Environmental Laws includes, but is not limited to, CERCLA and the common law.

"**Event of Default**" means the term as described in Section 8.1.

"**Event of Force Majeure**" means strikes, lockouts or other labor disturbances; delays in transportation; inability to secure labor or materials in the open market; acts of God or the elements, including fire, flood, washout, perils at sea, lightning, earthquake or accidents; conditions arising out of or attributable to acts of war, civil disturbances or riots; the effect of any Law; the failure of any Governmental Authority to issue any permit, entitlement, approval or authorization within a reasonable period of time after an application for the same has been submitted; the inability to sell electricity at commercially reasonable prices in the open market during a period when a force majeure clause under Tenant's power purchase contracts is in effect; or any other matter or condition beyond the reasonable anticipation and control of the Party in question, whether or not similar to the matters or conditions herein specifically enumerated; and (in the case of Tenant) while litigation contesting all or any portion of the right, title and interest of Owner in the Property and/or of Tenant under this Lease Agreement shall be pending and not finally determined.

"**Governmental Authority**" means any federal, state or local court, administrative agency, commission, instrumentality or other governmental authority (or any political subdivision thereof) and any electric reliability organization, regional transmission organization, or independent system operator, in each case, with jurisdiction over the Property, the Project Facilities, or this Lease Agreement.

"**Hazardous Materials**" means (i) any and all substances, materials, chemicals, and wastes which are now or hereafter classified or regulated under current or future Environmental Laws; and (ii) "hazardous substance," "pollutant or contaminant," "petroleum," and "natural gas liquids" as such terms are defined or used in Section 9601 of CERCLA.

"**Indemnified Party**" means the term defined in Section 10.3(a).

"**Indemnifying Party**" means the term defined in Section 10.3(a).

"**Investment Grade**" means a credit rating assigned to Tenant or one of Tenant's Affiliates senior long-term unsecured debt obligations of at least BBB- from Standard & Poor's Rating Services, Baa3 from Moody's Investors Service, or another, similar ratings service with an equivalent rating standard as the foregoing.

"**Laws**" means all valid and applicable laws, statutes, ordinances, regulations, orders and assessments of any Governmental Authority with jurisdiction over the Project Facilities or the Property.

"**Lease**" means all leasehold rights described and contained in this Lease Agreement, together with any other rights specified in this Lease Agreement.

"**Lender**" means any financial institution, equity investor or other person that from time to time provides secured financing or equity investment for some or all of the Project Facilities or Operations, and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant, or participating or syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns.

"**Lender's Lien**" means the term as described in Section 9.3.

"**Memorandum of Lease**" means a memorandum of this Lease Agreement, the form of which memorandum is attached as Schedule B.

"**Monetary Default**" means the term as described in Section 8.1(a).

"**Non-Monetary Default**" means the term as described in Section 8.1(b).

"**Notice of Claim**" means the term defined in Section 10.3(b).

"**Offer**" means the term defined in Section 10.9(a).

"**Offer Notice**" means the term defined in Section 10.9(a).

"**Operations**" means the activities which Tenant has the right to undertake pursuant to Section 2.1 and Section 5.1 and the other portions of this Lease Agreement with respect to the Property.

"**Operations Term**" means the term defined in Section 2.2(b).

"**Operations Term Base Rent**" means the amount as calculated pursuant to the Basic Terms.

"**Operations Term Commencement Date**" means the date upon which the Development and Construction Term expires.

"**Overdue Rate**" means five percent (5%) per annum plus the Prime Rate announced from time to time by Bank of America, or the maximum rate permitted by Law, whichever is less.

"**Permitted Encumbrances**" means the term defined in Section 7.9(a).

"**Permitted Uses**" means those certain permitted uses as more particularly described in Article 5.

"**Person**" means an individual, corporation, limited liability company, voluntary association, joint stock company, business trust, partnership, agency, Governmental Authorities, or other entity.

"**Project**" means the BESS project to be constructed and operated on the Property.

"**Project Facilities**" means the BESS, Electric Interconnection Facilities, substations, switching stations, electric transformers, battery and other energy storage facilities, telecommunications equipment related to the BESS, roads, meteorological equipment, foundations, pads, footings, mounting structures, supports, foundations, communication cables and/or networks, lay-down and staging areas, crane pads, maintenance, administrative, operations, maintenance and storage buildings, reasonable signage, and all related or ancillary improvements and equipment.

"**Property**" means the Property as described in the Basic Terms.

"**Real Property Records**" means the Clerk's Office of the Rockingham County Circuit Court.

"**Rent**" means the term defined in Section 3.1.

"**Right of First Refusal**" means the term defined in Section 10.9.

"**Setback Requirements**" means the term defined in Section 7.6.

"**Sublessee**" means RWE Clean Energy DCE Development, LLC, a Delaware limited liability company, or any permissible assignee thereof.

"**Taking**" means the term as described in Section 10.5.

"**Term**" or "**Lease Term**" means the Development and Construction Term, the Operations Term, and the Decommissioning Term collectively, as further described in Section 2.2.

ARTICLE 2. GRANT OF RIGHTS; TERM

Section 2.1 Lease. For and in consideration of the covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed by Owner and Tenant, Owner hereby leases to Tenant, and Tenant hereby leases from Owner, the Property, together with all rights, privileges, ingress, egress and utility easements and appurtenances belonging or in any way pertaining to the Property. The Parties acknowledge that this Lease Agreement is being entered into pursuant to, and in furtherance of, the BESS Agreement. In the event that the engineering, site plan, environmental, or other

approvals reasonably necessary for the construction of the BESS require a change to either (i) the location of the Property upon the Parent Parcel, as defined in Exhibit A or (ii) the square footage of the Property, then Owner and Tenant agree to negotiate in good faith with respect to an amended description of the Property, and upon the mutual agreement of Owner and Tenant Exhibit A may be updated to reflect such agreed-upon adjustments to the Property.

Section 2.2 Lease Term. The term of this Lease Agreement shall commence on the Effective Date and shall continue thereafter until the expiration of the Operations Term, unless sooner terminated as provided for herein and subject to Tenant's right to extend the term as provided for herein (the "**Term**" or the "**Lease Term**"). The Lease Term shall consist of the following:

(a) The period commencing on the Effective Date and expiring on the Commercial Operations Date (the "**Development and Construction Term**"); and

(b) The period commencing on the Operations Term Commencement Date and expiring on the fifteenth (15^{th}) anniversary of the Operations Term Commencement Date, unless sooner terminated as provided in this Lease Agreement (the "**Operations Term**").

(c) The period commencing upon expiration of the Operations Term Commencement Date, to allow for Tenant's decommissioning and removal of the Project (the "Decommissioning Term"). The Decommissioning Term shall last no longer the six (6) months, unless extended per mutual written agreement of Tenant and Landlord. The Decommissioning Term shall end at 5:00 p.m. local time. If the Decommissioning Term ends on a Saturday, Sunday, or holiday, the Decommissioning Term shall be extended, at no additional rent or cost to Tenant, to the next day that is not a Saturday, Sunday, or a holiday.

Section 2.3 Early Termination by Tenant. Subject to the terms of the BESS Sublease (defined below), Tenant shall have the right to terminate this Lease Agreement in the event the BESS Agreement is terminated (in accordance) with its terms) by providing Owner at least ninety (90) days advance written notice of such termination. In such event, (i) Owner shall retain all Rent paid prior to the date of such termination, and (ii) at Owner's request, Tenant will execute a written notice of such termination, in a recordable form and in form reasonably acceptable to Tenant, to confirm such termination.

Section 2.4 Early Termination by Owner. Owner shall have the right to terminate this Lease Agreement in the event the BESS Agreement is terminated (in accordance with its terms and conditions) by providing Tenant at least ninety (90) days advance written notice of such termination.

ARTICLE 3. PAYMENTS AND FEES

Section 3.1 Base Ground Rent. During the Term, Tenant shall pay annual Base Ground Rent (the "**Rent**"), in advance, to Owner, as provided herein. For the Development and Construction Term, on the Effective Date Tenant shall pay to Owner the Development and Construction Term Base Rent by Electronic Transfer or such other means as the Parties may mutually agree. Within ten (10) Business Days after the Operations Term Commencement Date and on each anniversary of the Operations Term Commencement Date thereafter throughout the

Term, Tenant shall pay to Owner annual Operations Term Base Rent by Electronic Transfer or such other means as the Parties may mutually agree, as such rent shall be calculated pursuant to the Basic Terms. The Parties understand and agree that this Lease is being executed solely in furtherance of the BESS Agreement.

ARTICLE 4. ADDITIONAL EASEMENTS

Section 4.1 Cooperation Regarding Additional Easements. Owner acknowledges that commercial operation of the Project may require, from time to time during the Project's existence, additional easements in favor of Tenant or certain third parties on the Property and on real property that is owned by Owner on the date hereof, or later acquired, and adjacent to the Property (each an "**Additional Easement**"). Accordingly, if Tenant, the independent system operator with jurisdiction over the system in which the Project operates, the transmission or distribution system owner or operator to whose distribution or transmission lines the Project interconnects, the phone or other communications provider, or the off-taker to whom output from the Project are to be sold, determines that one or more separate easements is reasonably required for the efficient and/or safe operation of the Project, then Owner agrees to consider in good faith and in accordance with Virginia law the granting of such Additional Easements on a non-exclusive basis on, over, across, along and/or above the Property and any other real property that is owned by Owner and adjacent to the Property, including the right to install and maintain on the Property and such adjacent Property (i) distribution and transmission lines and facilities, including the Electric Interconnection Facilities, both overhead and underground, which carry electrical energy to and/or from the Project, (ii) communications lines and facilities, both overhead and underground, which carry communications to and/or from the Project, and/or (iii) metering equipment, substations, switching stations, meteorological observation equipment, and control, maintenance and administration buildings that benefit the Project, in such location or locations as such party may reasonably request, and that are reasonably satisfactory to Owner and no such additional consideration shall be due to Owner for said Additional Easement other than the amounts due within this Lease Agreement. Notwithstanding the foregoing, Owner shall not be required to grant any Additional Easement that (a) interferes with any Permitted Encumbrances or Owner's or any third party's use and enjoyment of any other property owned by Owner or (b) that is in violation of any agreement to which Owner is a party.

ARTICLE 5. PERMITTED USE; RIGHTS OF PARTIES

Section 5.1 Tenant shall have the exclusive right to use the Property for the Project Facilities and to evaluate, develop and use a BESS project on, about, over, and across the Property, including, without limitation, (a) using, collecting, distributing, storing, and transmitting electric energy on, above, over, through, and across the Property; and (b) engaging in any other lawful uses reasonably related to the development of the BESS, including, without limitation, the development, erection, installation, construction, improvement, reconstruction, enlargement, removal, relocation, replacement and repowering, and the use, maintenance, repair and operation, of the following: (i) a weather station, monitoring and recording equipment and facilities with respect to the BESS, including, without limitation, the establishment at Tenant's sole discretion of a land-based or satellite-based high speed Internet connection and/or a meter for the load at the Property; (ii) the BESS and other facilities related to the storage or distribution of energy, together with mounting substrates or supports and their associated structure and foundations; (iii) the

Electric Interconnection Facilities and any other telecommunications equipment; energy storage facilities; interconnection and/or switching facilities, circuit breakers, transformers; utility lines and installations, cables, wires, fiber, conduit, footings, foundations, towers, poles, crossarms, guy lines and anchors, and any related or associated improvements, fixtures, facilities, appliances, machinery, and equipment; (iv) any other improvements, fixtures, facilities, appliances, machinery, and equipment, whether temporary or permanent, deemed necessary by Tenant, in its sole discretion, that are related to or associated with any of the foregoing items; (v) filming and recording (including a webcam showing site activities on the Internet) any aspect of the Property, the Project Facilities and/or the Project for measuring the energy output, publicity, marketing, security, research or educational purposes associated with development of the BESS; and (vi) implementing, operating and maintaining security deemed appropriate by Tenant with respect to the Project Facilities, which may include (but shall not be limited to): video monitoring, night-vision monitoring, motion detection, and on-site security personnel. Notwithstanding anything to the contrary herein, Tenant shall be entitled to determine the size, type and manufacturer of the Project Facilities to be located upon the Property in its sole discretion. After the Effective Date, Owner shall not (a) grant (actively or permissively) any rights under this Lease Agreement or in or to the Property to any other party or (b) amend, terminate, or surrender any documents or rights entered into by Owner (or its predecessors in interest) or granted to Owner (or its predecessors in interest), as applicable, with respect to the Property, in each case, which are reasonably expected to impair Tenant's rights under this Lease Agreement, without Tenant's prior written consent.

Section 5.2 No Required Construction or Production. Nothing contained in this Lease Agreement shall be construed as requiring Tenant (i) to undertake construction or installation or to alter or remove any Project Facilities on the Property or elsewhere, except for removal of all Project Facilities in accordance with the terms of Section 6.4 hereof upon the expiration, surrender, or earlier termination of this Lease Agreement as provided herein, (ii) to continue operation of any Project Facilities from time to time located on the Property or elsewhere, or (iii) to store or discharge or sell any minimum or maximum amount of electrical energy from the Property; and the decision if, when and to what extent that such construction will occur shall be solely in Tenant's discretion.

Section 5.3 In addition to, and without limiting in any way, the rights granted in Section 5.1 above, Tenant shall also have the exclusive right during the Development and Construction Term to conduct any and all studies, tests, evaluations, inspections, and investigations it may desire of the Property, including, without limitation, wetlands delineations, and environmental site assessments (Phase I and, if necessary, Phase II), archaeological and historic resource site assessments (Phase I and, if necessary, Phase II), soils testing, geotechnical borings and compaction surveys.

ARTICLE 6. TENANT'S OBLIGATIONS

Section 6.1 Compliance with Law. In conducting its Operations on the Property, Tenant shall comply in all material respects with all Laws; however, Tenant may contest the validity or applicability of any Law (including but not limited to any property tax) related to the Property, the Tenant, the Project, the Operations, or any other activity or property of Tenant or Tenant's Affiliate, by appropriate legal proceedings brought in the name of Tenant or in the names of both Tenant and Owner where appropriate or required; provided Owner shall have the right to consent

to being named in such proceedings. Any such contest or proceeding, including any initiated by Tenant and maintained in the name of Owner, shall be at Tenant's expense and be controlled and directed by Tenant, but in consultation with Owner and at no cost to Owner, excepting proceedings which arise due to Owner's violation of any Law. Notwithstanding the above, the Owner shall not be named a party Plaintiff to, or have any obligation to cooperate in or with respect to, (i) any legal proceedings challenging any property tax assessed by the Owner or the Harrisonburg Commissioner of the Revenue or (ii) any proceedings related to the applicability or enforcement of any law or regulation within the jurisdiction of the City of Harrisonburg.

Section 6.2 Location of Project Facilities. Project Facilities on the Property shall be constructed and maintained in the location specified on a site plan approved by Owner, which approval shall not be unreasonably withheld.

Section 6.3 Fences, Gates and Security. Tenant shall cause to be constructed and erected or construct and erect fences, locked gates and other security precautions as reasonably necessary to accommodate and secure the Project and as approved by Owner in accordance with Section 6.2. Tenant shall provide a key to any locked gates to Owner. In the event that Tenant's access to the Project requires passage through a locked gate that also secures Owner's facilities, Tenant will ensure that Tenant re-locks Owner's gate immediately after such use by Tenant. Tenant shall comply with all of Owner's security policies and procedures when entering, exiting, or operating on the Property.

Section 6.4 Restoration. Subject to the rights of Lenders upon termination of this Lease Agreement as provided herein, and subject to the rights of all third parties set forth in any Permitted Encumbrance, on or before the end of the Decommissioning Term, Tenant shall cause to be completed or complete the following restoration tasks at Tenant's sole expense: (i) removal from the surface of the Property any Project Facilities owned, installed or constructed by Tenant thereon, (ii) fill in and compaction of all trenches or other borings or excavations made by Tenant on the Property, (iii) clearance from the surface of the Property all debris caused by Tenant's activities, and (iv) removal of any Project Facilities beneath the surface of the Property to a depth of 3 feet, unless otherwise mutually agreed upon between the Parties. Tenant shall have the nonexclusive right to occupy the Property for a period of no longer than the Decommissioning Term only as reasonably required to promptly complete such restoration activities. During such period, Tenant shall have no obligation to pay Rent hereunder, provided that, during such period (i) Tenant shall continue to pay all taxes that it is otherwise required to pay pursuant to the terms of Section 6.5(a) or applicable Law, and (ii) all other terms and conditions of this Lease Agreement (other than the requirement to pay Rent) shall remain in full force and effect. Tenant shall comply with all applicable Laws, including the Permit, with respect to decommissioning requirements and restoration activities described herein.

Section 6.5 Taxes.

(a) Taxes Payable. From and after the Effective Date, subject to terms and conditions of this Section 6.5, Owner shall be responsible for any and all (i) real estate taxes assessed on the Property (ii) personal property taxes for personal property owned by Owner, (iii) general and special assessments assessed with respect to the Property, and (iv) other similar charges levied on or assessed against the Property itself. Notwithstanding the foregoing, during

the Lease Term, Tenant shall be liable for and pay any taxes, assessments, or charges levied on or against the Project Facilities located on the Property, any other Tenant personal property located on or in the Property, or any facilities or improvements located on the Property. Tenant shall make payment directly to the appropriate governmental authority for any personal property taxes validly levied upon the Project Facilities or any other Tenant personal property installed or located on the Property. Tenant shall have the right to contest the correctness or validity of any taxes, assessments, and charges for which it is responsible hereunder, so long as such contest does not result in loss of or to the Property. To remove all doubt, such contest must be submitted to the governmental entity originating such tax, assessment, or charge regardless whether such tax, assessment, or charge was originally billed to Owner or Tenant. Notwithstanding any other provision of this Section 6.5, Tenant shall not be obligated to pay for (a) any income taxes attributable to Owner; (b) any increase in the assessed value of the Property for tax purposes caused by Owner other than as a result of entering into and/or performing this Agreement; or (c) taxes or assessments arising from or related to operations on any adjacent land owned by Owner.

(b) Owner Obligation to Provide Tax Bills and Assessment Notices to Tenant. Upon receipt by Owner of any assessment notice related to taxable property for which Tenant is obligated to pay taxes to Owner pursuant to this Section 6.5, Owner shall forward to Tenant such bill or assessment notice, as the case may be, within ten (10) business days after receipt of same. Should Owner fail to timely deliver any tax bill to Tenant as provided in this Section 6.5, and such failure to deliver such tax bill should cause Tenant to be delinquent in payment to Owner of such tax bill, Tenant shall have the right to deduct from its next installment of Rent the amount of any penalties or late fees incurred due to the failure of Owner to timely deliver and/or pay such tax bill.

(c) Payment of Delinquent Taxes. If Owner is delinquent in the payment of any taxes that it is obligated to pay, then Tenant may, at its option, pay such delinquent amounts. If Tenant has not paid to Owner any real estate taxes that Tenant is obligated to pay, then Owner may, at Owner's option, pay such delinquent amounts. If Tenant has paid such delinquent amounts on behalf of Owner, then Owner shall pay such delinquent amounts plus interest at the Overdue Rate calculated from the due date of such payment, and Owner shall pay said amount within twenty (20) days following written notice from Tenant. If Owner has paid such delinquent amounts on behalf of Tenant, then Tenant shall pay such delinquent amounts plus interest at the Overdue Rate calculated form the due date of such payment, and Tenant shall pay said amount within twenty (20) days following written notice from Owner.

(d) Tax Credits. From and after the Effective Date, all tax credits, tax incentives or tax related grants or benefits relating to the Project are, and shall remain, the property of Tenant's Sublessee.

Section 6.6 Utilities. Tenant shall be solely responsible for and promptly pay for all water, electric, telecommunications and any other utility services used by the Project Facilities or Tenant on the Property. Tenant shall cause all accounts for utilities used or consumed in or about the Property in connection with the Project, if any, to be placed in the name of Tenant. Tenant shall be entitled to take any steps or actions necessary to connect with local or nearby utility companies for the provision of water, electric, telecommunications or any other utility services for use related to the Project. Tenant and Sublessee are expressly prohibited from drilling water wells upon the Property.

Section 6.7 Representations and Warranties of Tenant. Tenant hereby represents and warrants to Owner that, as of the Effective Date: (i) each Person signing this Lease Agreement on behalf of Tenant is authorized to do so, (ii) Tenant has the full and unrestricted legal power, right and authority to enter into this Lease Agreement, and to perform its obligations hereunder, (iii) no other Person is required to join in this Lease Agreement in order for the same to be fully enforceable by Owner, (iv) this Lease Agreement is and will be in full force and effect as to Tenant, without the necessity of any consent of or joinder herein by any other Person, (v) this Lease Agreement constitutes the valid and binding obligation of Tenant, and is enforceable in accordance with its terms, and (vi) Tenant is not the subject of any bankruptcy, insolvency or probate proceeding.

Section 6.8 Mechanics' Liens. Tenant shall pay all costs for any construction done by it or caused to be done by it on the Property as permitted by this Lease Agreement. Tenant is hereby giving Owner notice of its intent to commence construction of material improvements on the Property in connection with the Project and, after substantial completion of the Project, Tenant shall keep the Property free and clear of all mechanics' liens resulting from construction done by or for Tenant and Tenant shall have sixty (60) days after first becoming aware of any mechanics' lien encumbering the Property to (i) pay such mechanics' lien or (ii) contest the correctness or the validity of any such mechanics' liens if, within such sixty (60) day period, Tenant procures and records a lien release bond issued by an entity authorized to issue surety bonds in the Commonwealth of Virginia in an amount equal to one and one half ($1^1/_2$) times the amount of the claim of the lien or otherwise removes such lien from the Property.

ARTICLE 7. OWNER'S OBLIGATIONS

Section 7.1 No Interference – Non-Obstruction. Neither Owner's activities, nor the exercise of any rights hereafter given or granted by Owner to any other Person (whether exercised on the Property or elsewhere), shall materially interfere or take any action to interfere or decrease the output or efficiency of any Project Facilities, with Tenant's then-existing lease, easement or other rights relating to (i) access by Tenant or its Affiliates or contractors to the Property or any lands in the vicinity of or adjacent to the Property used by Tenant in the Operations, (ii) Operations of Tenant or its Affiliates or contractors on the Property or on lands adjacent to or in the vicinity of the Property used by Tenant in the Operations, (iii) the exercise of Tenant's rights under this Lease Agreement, or (iv) the undertaking of any other activities permitted by Tenant hereunder.

Without limiting the generality of the foregoing, for so long as this Lease Agreement is in effect, Owner (including any other Person that has obtained rights either from Owner or any Person claiming, directly or indirectly, under Owner) shall not take any action or fail to take any action with respect to the Property that would reasonably be expected to interfere with Tenant's use of the Property or the operation of the Project, including any actions or inactions on the Property or adjacent property that may cause a decrease in the output or efficiency of any Project Facilities. In addition, Owner has not, shall not, and shall not allow any other person to, use the surface of the Property for purposes of exploring for, developing, drilling, producing, transporting, or any other purposes incident to the development or production of oil, gas, or other minerals. Tenant shall have the right, subject to applicable Laws, to remove any trees, branches, overgrowth, structures, improvements, or other obstructions on the Property or adjacent property that adversely affect its use of the Property or the Project Facilities as permitted under this Lease Agreement.

Section 7.2 Compliance with Obligations. Owner shall comply on a timely basis with all of its legal and contractual obligations with respect to the Property. If Owner fails to do so, then, without limitation upon any other rights or remedies that Tenant may have at law or in equity, Tenant may (but shall not be obligated to) pay or otherwise satisfy any unpaid obligations of Owner which, if left unsatisfied, could delay, interfere with, impair or prevent Operations or the exercise of any of Tenant's other rights under this Lease Agreement, or the financing of the Project; and Tenant shall thereupon be subrogated to the rights of the obligee of such obligations. Without limitation on any other rights or remedies available to Tenant, any sums so expended by Tenant shall be immediately reimbursed to Tenant by Owner.

Section 7.3 Rights of Third Parties.

(a) From and after the Effective Date, any right, title or interest created by Owner in favor of or granted to any third party and related to the Property or this Lease Agreement shall be subject to this Lease Agreement and all of Tenant's rights, title and interests created hereby.

(b) If at any time during the Term any Encumbrance to Owner's title to the Property which was created prior to the Effective Date is found, exists or is claimed to exist against the Property or any portion thereof, creates rights superior to those of Tenant, and Tenant in its sole discretion determines that the existence, use, operation, implementation, or exercise of such Encumbrance would reasonably be expected to delay, interfere with, impair, or prevent Operations or the exercise of any of Tenant's other rights under this Lease Agreement or the financing of the Project, then Tenant shall be entitled to seek to obtain a subordination, non-disturbance agreement, consent, or other agreement (in a form and containing provisions reasonably acceptable to Tenant) from the holder of such Encumbrance that will eliminate such risks for the benefit of Tenant, and Owner shall reasonably cooperate with and assist Tenant in connection therewith, at Tenant's sole cost and expense. The holder of such Encumbrance shall be permitted to rely on this section as Owner's express consent, without further consent required, to Tenant's request for a subordination, non-disturbance agreement, consent, or other agreement (in a form and containing provisions reasonably acceptable to Tenant) that will eliminate such risks for the benefit of Tenant.

Section 7.4 No Ownership Right. Owner shall have no ownership, no lien rights, or other interest in any Project Facilities installed by Tenant on the Property. Tenant may remove any or all Project Facilities at any time in accordance with Section 6.4 hereof. Without limiting the generality of the foregoing, Owner hereby waives any statutory or common-law lien that it might otherwise have in or to the Project Facilities or any part thereof. Notwithstanding anything in this Lease Agreement to the contrary, no part of the Project Facilities or Electric Interconnection Facilities installed by Tenant on the Property shall be considered part of the Property or an improvement to real property; the Project Facilities or Electric Interconnection Facilities shall at all times be considered by the Parties to be tangible personal property owned exclusively by Tenant.

Section 7.5 Cooperation. Owner shall reasonably cooperate (and shall use commercially reasonable efforts to cause any other Person with any other right, title, or interest in the Property to cooperate) with Tenant, at Tenant's sole cost and expense, in the conduct of Tenant's construction and operations of the Project Facilities and in otherwise giving effect to the

purpose and intent of this Lease Agreement, including in Tenant's efforts to obtain from any Governmental Authority or any other Person any environmental impact review, easement, permit, entitlement, approval, authorization, or other rights necessary or convenient in connection with construction and Operations; and Owner shall (and shall use commercially reasonable efforts to cause any such other Person to) promptly upon request and without demanding additional consideration, execute, and, if appropriate, cause to be acknowledged and recorded, any map, application, permit, or document that is reasonably requested by Tenant in connection therewith (as well as any amendment to this Lease Agreement or any recordable memorandum executed in connection herewith for purposes of making non-substantive corrections). Without limiting the generality of the foregoing, in connection with any application by Tenant for a governmental permit, approval, authorization, entitlement, or other consent, Owner agrees (and shall use commercially reasonable efforts to cause any such other Person to agree) (but at no unreimbursed cost or expense to Owner) not to oppose, in any way, whether directly or indirectly, any such application or approval at any administrative, judicial, or legislative level, unless such application or approval would materially impair the use or value of the Property after the termination or expiration of the Lease Term. Notwithstanding the foregoing, permits, applications, entitlements, approvals, authorizations, laws, regulations, and other rights administered by, or within the jurisdiction of, the City of Harrisonburg are excluded from the scope of this Section 7.5 and the City will not have any contractual obligations with respect to the same.

Section 7.6 Title and Quiet Possession. Landlord represents and covenants that Landlord owns the Property in fee simple, free and clear of all liens and encumbrances, except for those that currently appear in the recorded chain of title. Tenant shall have the quiet use and enjoyment of the Property and the easements described herein in accordance with and subject to the terms of this Agreement, without any unreasonable hindrance, interference, or molestation of any kind by Owner or any person claiming through Owner.

Section 7.7 Confidentiality. To the extent permissible under applicable Laws, including but not limited to the Virginia Freedom of Information Act, Owner shall hold in confidence, and shall require its principals, officers, employees, representatives, and agents to hold in confidence, for the sole benefit of Tenant, (i) this Lease Agreement, (ii) any statements or accountings related to the Project, (iii) all information pertaining to the rent and to calculation of rent payments (including the sale price of power), (iv) any other financial information provided by or on behalf of Tenant, (v) any books, records, or product designs of Tenant or Affiliate thereof, and (vi) any information regarding energy output or availability from Operations on the Property (collectively, "**Confidential Information**"). Confidential Information shall not include information that (a) is in the public domain by reason of prior publication through no act or omission of Owner, (b) was already known to Owner at the time of disclosure and which Owner is free to use or disclose without breach of any obligation to any Person, (c) was independently developed by Owner without use of confidential information, or (d) is required to be released in accordance with applicable law. Owner shall not use any such Confidential Information for its own benefit, publish, or otherwise disclose such Confidential Information to others, or permit the use of such Confidential Information by others for their benefit or to the detriment of Tenant. Notwithstanding the foregoing, Owner may disclose such information to (1) Owner's lenders; attorneys; prospective purchasers, accountants, and other personal financial advisors; and Owner's members, partners, principals, directors, officers, shareholders, managers, and employees who, in Owner's reasonable judgment, have a bona fide need to know such confidential information, and (2) any prospective

purchaser of or lender against the Property; provided that in making such disclosure Owner advises the party receiving the information of the confidentiality thereof and obtains the agreement of said party to abide by the confidentiality provisions above, and Owner shall be responsible to Tenant for any failure of any such third-party to do so. Owner may also disclose such information pursuant to any lawful subpoena or court order, in which case Owner shall give Tenant sufficient advance notice of such proceedings to allow Tenant to oppose the issuance of the same (or, if this is not possible, as much notice as is practicable). Owner recognizes and acknowledges the competitive value of the Confidential Information and the damage that could result to Tenant if the Confidential Information were used or disclosed by Owner except as authorized by this Lease Agreement. Accordingly, Tenant shall be entitled to all remedies available at law, including but not limited to equitable relief by way of specific performance, injunction, or otherwise if Owner or any of its Representatives breaches or threatens to breach any of the provisions of this Lease Agreement.

Section 7.8 Estoppel Certificates. Owner shall, within ten (10) days after request by Tenant, any Lender, or any proposed or actual Assignee, execute and deliver an estoppel certificate (i) certifying (if true) that this Lease Agreement is in full force and effect and has not been modified, (ii) certifying (if true) that to the best of Owner's knowledge there are no uncured Events of Default hereunder, and no condition or event exists which, with the passage of time, would become an Event of Default (or, if any uncured Events of Default or any such conditions or events exist, stating with particularity the nature thereof), and (iii) any other certifications as may reasonably be requested by Tenant, Lender or Assignee. Tenant, any existing or proposed Lender, or any Assignee shall have the right to rely on the certifications made in such estoppel certificate.

Section 7.9 Representations and Warranties. Owner hereby represents and warrants to Tenant as of the Effective Date that:

(a) (i) Owner is the sole fee owner of the Property, subject to such encumbrances as may be of record in the land records of the Clerk's Office of the Rockingham County Circuit Court, (ii) each Person signing this Lease Agreement on behalf of Owner is authorized to do so, (iii) Owner has the full and unrestricted legal power, right and authority to enter into this Lease Agreement, and to perform its obligations hereunder, (iv) no other Person is required to join in this Lease Agreement in order for the same to be fully enforceable by Tenant and for Tenant to enjoy all the rights and benefits accorded to it hereunder, (v) this Lease Agreement is in full force and effect, without the necessity of any consent of or joinder herein by any other Person, (vi) this Lease Agreement constitutes the valid and binding obligation of Owner, and is enforceable in accordance with its terms (except as enforcement may be limited by general principles of equity and/or bankruptcy, insolvency, moratorium and similar laws affecting creditors' rights and remedies generally), and (vii) Owner is not the subject of any bankruptcy, insolvency or probate proceeding.

(b) To Owner's knowledge, neither this Lease Agreement nor the Property or any portion thereof is in violation of any Law.

(c) To Owner's knowledge, there are no pending or threatened actions, suits, claims, legal proceedings or any other proceedings (including condemnation proceedings) affecting or that could affect the Property or any portion thereof, at law or in equity, before any court or governmental agency.

(d) Owner has no knowledge of, nor has it received any notice of, any special taxes or assessments relating to the Property or any part thereof.

(e) There are no leases or other agreements, whether oral or written, that grant any parties the right to use or occupy the Property or any part thereof.

(f) Owner has no knowledge of any planned repairs, alterations, or corrections of any existing condition on the Property or any part thereof.

(g) Owner has no knowledge of any planned public improvements that may result in a special assessment being made against the Property or any part thereof.

ARTICLE 8. DEFAULT; REMEDIES; PROTECTION OF LENDERS

Section 8.1 Default. Subject to the rights of Lenders as provided in this Lease Agreement, each of the following events shall constitute an "**Event of Default**" by a Party and shall permit the non-defaulting Party to exercise any and all rights under this Lease Agreement in accordance with this Article 8 and/or pursue other remedies except as expressly limited by the terms of this Lease Agreement:

(a) Failure to Pay. The failure or omission by either Party to pay amounts required to be paid pursuant to this Lease Agreement when due hereunder, and such failure or omission has continued for thirty (30) days after written notice from the other Party (a "**Monetary Default**"); or

(b) Failure to Perform. The failure or omission by either Party to observe, keep or perform any of the other terms, agreements, or conditions set forth in this Lease Agreement, and such failure or omission has continued for sixty (60) days (or such longer period as may reasonably be required to cure such failure or omission, provided that cure has commenced and such Party is diligently proceeding to complete such cure) after written notice from the other Party (a "**Non-Monetary Default**").

Subject to the rights of Lenders as provided in this Lease Agreement, upon the occurrence and during the continuation of an Event of Default by Tenant, Owner may, at its option, and in addition to and cumulatively of any other rights Owner may have at law or in equity or under this Lease Agreement, (a) cure the Tenant Event of Default on Tenant's behalf, in which event Tenant shall reimburse Owner on demand for all sums so expended by Owner, (b) in the case of a Monetary Default, terminate this Lease Agreement by notice to Tenant and in conformity with procedures required hereby and by applicable Law, or (c) enforce, by all proper and legal suits and other means, its rights hereunder, including the collection of sums due hereunder, in which event Owner shall have all remedies available at law or in equity except as limited by the terms of this Lease Agreement. Owner shall not be entitled to punitive or consequential damages from an Event of Default.

If a judgment is rendered against a Party for monetary damages in connection with a Non-Monetary Default which judgment becomes final and non-appealable, and such judgment is not paid within thirty (30) days after written demand for payment, then such failure to pay shall then become a Monetary Default by such Party under this Lease Agreement.

Upon the occurrence and during the continuation of an Event of Default by Owner, Tenant may, at its option, and in addition to and cumulatively of any other rights Owner may have at law or in equity or under this Lease Agreement, (a) cure the Owner Event of Default on Owner's behalf, in which event Owner shall reimburse Tenant on demand for all sums so expended by Tenant, (b) subject to the terms of the BESS Sublease, terminate this Lease Agreement by notice to Owner and in conformity with procedures required hereby and by applicable Law, or (c) enforce, by all proper and legal suits and other means, its rights hereunder, including the collection of sums due hereunder, in which event Tenant shall have all remedies available at law or in equity except as limited by the terms of this Lease Agreement. Tenant shall have the right but not the obligation after providing at least sixty (60) days' notice to Owner to perform, acquire, or satisfy any lien, encumbrance, agreement, or obligation of the Owner which is a lien or encumbrance on the Property or Improvements; provided Owner is not contesting the correctness or validity of such lien, encumbrance, agreement or obligation and such lien, encumbrance, agreement, or obligation does not result in a material risk of loss of the Property or Improvements. Tenant shall not be entitled to punitive or consequential damages from an Event of Default.

Section 8.2 Protection of Lenders.

(a) If Tenant has assigned, hypothecated, mortgaged, or pledged all or any portion of its right, title or interest under this Lease Agreement and/or in any Project Facilities, it shall promptly give notice of the same (including the address of the Lender) to Owner, together with a general description of the interest transferred; provided, however, that the failure to give such notice shall not constitute a default or Event of Default under this Lease Agreement but rather shall only have the effect that Owner shall not be required to recognize or be bound by such assignment, hypothecation, mortgage, or pledge (and all notice and other requirements in this Article 8 benefiting such Lender shall accordingly be inapplicable) until such notice shall have been given (unless such information is included in an estoppel certificate signed by Owner, in which event notice hereunder shall not be necessary). Every Lender shall have the right, but not the obligation, (i) to make any payments due under this Lease Agreement, (ii) assign its mortgage; (iii) enforce its mortgage, and (iv) to do any other act or thing that may be necessary or appropriate to be done in the performance and observance of the terms hereof. All payments so made and all things so done and performed by any Lender shall be as effective to prevent or cure any Event of Default as they would have been if made, done and performed by Tenant, and Owner agrees to accept, in writing, such performance, payment and cure. Owner agrees to accept such payment and performance, and authorizes the performing Lender (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of Tenant hereunder.

(b) Owner shall deliver to each Lender a duplicate copy of all notices of default that Owner may from time to time deliver to Tenant, and Owner shall deliver such copies to each such Lender at the same time such notices of default are delivered to Tenant.

(c) The transfer of Tenant's interest under this Lease Agreement to any Lender and/or to one or more purchasers or tenants (i) at a foreclosure sale by judicial or nonjudicial foreclosure and sale, (ii) by a conveyance by Tenant in lieu of foreclosure, or (iii) by any other assignment or conveyance, including by a Lender following foreclosure and sale, or as a result of any other legal proceeding, shall not require the consent of Owner, and Owner agrees that upon

such foreclosure, sale, conveyance, assignment, or other proceeding, Owner shall recognize such Lender or such other purchaser(s) or tenant(s) as the successor to Tenant under this Lease Agreement; provided, however, that such Lender or such purchaser or tenant assumes the obligations of Tenant under this Lease Agreement, pays all amounts in arrears due from Tenant to Owner hereunder, and has a minimum of five (5) years' experience operating and maintaining BESS facilities of comparable size, or larger, to the Project (unless the purchaser or tenant is an Affiliate of Tenant).

(d) Neither the bankruptcy nor the insolvency of Owner or Tenant shall be grounds for terminating this Lease Agreement so long as Tenant or a Lender has paid Rent and all other monetary obligations of Tenant in accordance with the terms of this Lease Agreement. If this Lease Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if this Lease Agreement is terminated for any reason other than an Event of Default which could have been, but was not cured by a Lender as provided in this Article 8, and if, within thirty (30) days after receiving notice of such rejection or termination, any Lender shall so request, then, so long as such Lender has cured any Event of Default, Owner shall execute and deliver to such Lender or its designee a new agreement, which new agreement shall (i) be on the same terms and conditions as this Lease Agreement (except for any requirements that have been fulfilled by Tenant prior to rejection or termination of this Lease Agreement), (ii) be for a term equal to the remaining Term before giving effect to such rejection or termination, (iii) contain a lease of the portion of the Property in which such Lender had an interest on the date of such rejection or termination, (iv) require payment to Owner of the amount of rent, calculated using only the portion of Property covered by the new agreement, (v) enjoy the same priority as this Lease Agreement over any lien, encumbrance or other interest created by Owner, and (vi) be executed within thirty (30) days after receipt by Owner of notice of the Lender's election to enter into a new agreement.

(e) There shall be no merger of the leasehold estate or easement interest created thereby, with the fee estate in the Property by reason of the fact that the Lease or said leasehold estate may be held, directly or indirectly, by or for the account of any person or persons who own such fee estate or any interest therein, and no such merger shall occur unless and until all persons then having an interest in such fee estate and all persons (including any Lender) then having an interest in this Lease Agreement, shall join in a written instrument effecting such merger and duly record the same.

(f) Each Lender is and shall be an express third-party beneficiary of the terms of this Section 8.2 and shall be entitled to enforce the obligations of Owner hereunder.

(g) Nothing herein shall permit the Tenant to create a lien in favor of a Lender against Owner's fee interest in the Property.

ARTICLE 9. ASSIGNMENT AND SUBLETTING

Section 9.1 Assignment. Tenant may not assign, or transfer its interest (or any portion thereof) in this Lease Agreement or in the Project to any Person without the prior written consent of Owner, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Tenant may, without the prior written consent of Owner, sublease the Property to Sublessee, as more particularly described in Section 10.22 below. Additionally,

notwithstanding the foregoing, Sublessee may, without the prior written consent of Owner, assign the Sublease to (i) an Affiliate or (ii) any entity that acquires all or substantially all of Sublessee's Project Facilities on the Property, provided Sublessee provides Owner with written notice of such assignment. Additionally, notwithstanding the foregoing, Tenant, including any entity which has assumed Tenant's obligations hereunder through a sublease or other written agreement including without limitation Sublessee, shall remain liable under this Agreement on an assignment under subparagraphs (i) and (ii) unless the Assignee has an Investment Grade credit rating.

Section 9.2 Conveyances/Assignments by Owner. Owner shall have the right to devise, convey, gift, assign, transfer, and/or sell Owner's interest in all or a portion of the fee title to the Property (along with any rights associated with the fee title) to any Person. Owner shall notify Tenant in writing of any sale, assignment, or transfer of any of Owner's interest in all or a portion of the fee title to the Property, or any part thereof along with any evidence of such sale, assignment, or transfer (including but not limited to, probate records, deed transfers, etc.) that is required by Tenant. Until Tenant receives such notice and the supporting documentation that Tenant requires, Tenant shall have no duty to any successor Owner, and Tenant shall not be in default under this Lease Agreement if it continues to make all payments to the original Owner before Tenant receives such notice of sale, assignment, or transfer and any evidence of such transfer required by Tenant. Notwithstanding anything herein, Owner shall not sever, convey, assign, sell, or otherwise transfer the rights to develop, install, operate, or maintain a BESS, or any other rights granted under this Lease Agreement, including the right to receive payments from the Tenant, separate and apart from the Property's fee title except to a successor owner of the fee title to the Property. In any agreement providing for the transfer of all or a portion of Owner's interest in the fee title to the Property, Owner shall ensure such agreement includes provisions that establish that, by virtue of such transfer, the future owner assumes Owner's obligations under this Lease Agreement as to the portion of Owner's interest in the fee title so purchased or so transferred.

Section 9.3 Right to Encumber. Tenant may, at any time and from time to time, conditionally or unconditionally, and without obtaining the consent of Owner, hypothecate, mortgage, grant, collaterally assign, or pledge all or any portion of Tenant's right, title, or interest under this Lease Agreement and/or in any Project Facilities to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation relating in whole or in part to Project Facilities or Operations (a "**Lender's Lien**").

ARTICLE 10. GENERAL PROVISIONS

Section 10.1 Insurance.

(a) Tenant will cause its Sublessee at Sublessee's sole expense to maintain at all times, with financially responsible insurers approved to do business in the Commonwealth of Virginia insurance, including, without limitation: (i) commercial general liability insurance, including personal injury and property damage against claims arising out of or connected with the possession, use, operation or leasing of the Property in the amount of $2,000,000 each occurrence and $5,000,000 in the aggregate and (ii) with respect to the improvements related to the Project, during such time periods that material construction activities are being conducted by Sublessee on the Property, "all risk" builder's risk insurance and after all testing and commissioning has been completed, commercial property insurance. Any insurance required under this Section 10.1 may

be subject to reasonable deductibles as are usually carried by prudent persons or companies of similar financial condition operating similar properties. Such insurance may be included under a blanket policy or policies covering the Property and other property and assets not constituting part of the Property. Any property insurance policies carried by either Owner, Tenant, or Sublessee shall include a waiver of the insurer's rights of subrogation against the other Party. Such insurance shall identify Owner as an additional insured under Sublessee's commercial general liability insurance policy, and Tenant shall provide Owner with evidence of such insurance in the form of a self-insured letter or certificate of insurance upon commencement of this Lease Agreement and annually thereafter.

(b) Notwithstanding the foregoing, to the extent allowed under applicable Law, Tenant may elect to self-insure for any of the required insurance provided Tenant or Tenant's Affiliate has an Investment Grade credit rating. If Tenant elects to self-insure, Tenant will provide Owner, if requested by Owner, with a letter of self-insurance in lieu of a certificate of insurance.

Section 10.2 Environmental Matters.

(a) Other than as set forth on Exhibit 10.2, Owner represents and warrants to Tenant that, to the best of Owner's knowledge (i) the Property is in compliance with Environmental Laws and (ii) there are no Hazardous Materials in, on, or under the Property, other than herbicides, pesticides and fertilizers that have been stored, mixed and applied on the Property in compliance with normal agricultural practices and in compliance with Environmental Laws.

(b) Tenant assumes responsibility for and agrees to comply with (i) all Environmental Laws applicable to Tenant's use of the Property, and (ii) all remediation and other requirements (as well as all consequences of the existence of) Hazardous Materials released on, in, under, from or onto, the Property by Tenant, or anyone acting through or on behalf of Tenant. Owner assumes responsibility for and agrees to comply with (i) all Environmental Laws applicable to Owner's use of the Property, and (ii) all remediation and other requirements regarding (as well as all consequences of the existence of) Hazardous Materials located on or released on, from or onto, the Property other than by Tenant or its contractors, including without limitation any Hazardous Materials located on the Property prior to the Effective Date.

Section 10.3 Indemnity.

(a) Indemnification. To the extent permissible under applicable Laws, each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and such other Party's mortgagees, Affiliates, officers, employees and agents (the "**Indemnified Party**") against any and all losses, damages (excluding consequential damages unless required to be paid by any Indemnified Party pursuant to a legal judgment obtained by a third party against such Indemnified Party for a claim for which an Indemnifying Party is required to provide indemnity hereunder), expenses and other liabilities, including without limitation reasonable attorneys' fees and any third party claims, to the extent pertaining to a third party claim for physical damage to property or physical injury to any person (each, a "**Claim**" and collectively, the "**Claims**"), to the extent resulting from or arising out of (i) any operations or activities of the Indemnifying Party on the Property, (ii) in the case of losses, damages, expenses and other liabilities incurred by Owner as the "Indemnified Party," any environmental mitigation or

conservation activities conducted by or on behalf of Tenant, its employees, Affiliates, agents or invitees or any other third parties with access to the Property, (iii) any negligent act or negligent failure to act or willful misconduct on the part of the Indemnifying Party or anyone else engaged in doing work for the Indemnifying Party, (iv) any breach or inaccuracy of any representations or warranties made by the Indemnifying Party under this Lease Agreement, or (v) any breach of this Lease Agreement by the Indemnifying Party. This indemnification shall survive the termination of this Lease Agreement. This indemnification shall not apply to losses, damages, claims, expenses, and other liabilities to the extent (a) caused by any negligent or deliberate act or omission on the part of the Indemnified Party or its Affiliates, officers, employees and agents, or (b) covered by insurance to the extent such proceeds are received by the Indemnified Party. **EACH PARTY WAIVES THE RIGHT TO COLLECT FROM THE OTHER PARTY PUNITIVE OR CONSEQUENTIAL DAMAGES FOR ANY MATTER UNDER THIS AGREEMENT, PROVIDED THAT AN INDEMNIFYING PARTY SHALL BE REQUIRED TO PAY ANY PUNITIVE OR CONSEQUENTIAL DAMAGES AWARDED TO A THIRD PARTY AS THE RESULT OF A THIRD-PARTY CLAIM.**

(b) Notice of Claim. Subject to the terms of this Lease Agreement and upon obtaining knowledge of a Claim for which it is entitled to indemnity under this Article 10, within thirty (30) days of obtaining such knowledge, the Indemnified Party shall deliver a notice of such Claim ("**Notice of Claim**") to the Indemnifying Party. The failure to provide (or timely provide) a Notice of Claim will not affect the Indemnified Party's rights to indemnification; provided, however, the Indemnifying Party is not obligated to indemnify the Indemnified Party for the increased amount of any loss which would otherwise have been payable to the extent that the increase resulted from the failure to deliver timely a Notice of Claim.

(c) Defense of Third-Party Claims. To the extent permissible under applicable Laws, the Indemnifying Party shall defend, in good faith and at its own expense, any Claim or demand pursuant to this Article 10 as set forth in a Notice of Claim relating to a third-party Claim, and the Indemnified Party, at its expense, may participate in the defense, unless the Indemnifying Party chooses counsel not reasonably acceptable to the Indemnified Party. If the Indemnifying Party does not pursue with reasonable diligence such defense of a third-party Claim, the Indemnified Party may defend the Claim at the Indemnifying Party's expense. The Indemnified Party shall have a right to notice of any settlement, and the Indemnifying Party shall not execute or otherwise agree to any consent decree that provides for other than monetary payment within such Indemnifying Party's sole ability to pay, without the Indemnified Party's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Indemnified Party shall have the right to pay or settle any such Claim, provided that in such event it shall waive any right to indemnity therefor by the Indemnifying Party. If the Indemnifying Party elects not to defend or settle such proceeding, Claim, or demand and the Indemnified Party defends, settles, or otherwise deals with any such proceeding, Claim, or demand, then the Indemnified Party shall provide thirty (30) days' advance written notice of any property settlement, which settlement may be without the consent of the Indemnifying Party, to the Indemnifying Party and will act reasonably and in accordance with its good faith business judgment. The Indemnified Party and the Indemnifying Party shall cooperate fully with each other in connection with the defense, negotiation, or settlement of any such legal proceeding, Claim, or demand.

(d) Access to Information. If any Claim is made by a third party against an Indemnified Party, the Indemnified Party shall use its best efforts to make available to the Indemnifying Party those partners, directors, officers, and employees whose assistance, testimony or presence is necessary to assist the Indemnifying Party in evaluating and in defending such Claims; provided, however, that any such access shall be conducted in such a manner as not to interfere unreasonably with the operations of the business of the Indemnified Party, but failure to use commercially reasonable efforts to provide necessary witnesses or access to information will excuse Indemnifying Party's performance.

(e) Reduction for Insurance and Other Recovery. The indemnities set forth in Section 10.3 above shall be without regard to whether Indemnified Party may also have a Claim against a third party for any of the losses. The gross amount that an Indemnifying Party is liable to, for, or on behalf of any Indemnified Party shall be reduced by any insurance proceeds, payments received in respect of a judgment or settlement, or other amounts actually recovered by or on behalf of the Indemnified Party related to the loss. If an Indemnified Party shall have received or shall have had paid on its behalf an indemnity payment in respect of a loss and shall subsequently receive, directly or indirectly, insurance proceeds, payments in respect of a judgment or settlement, or other amounts in respect of such loss, then the Indemnified Party shall pay to the Indemnifying Party all such amounts received or, if less, the amount of the indemnity payment.

Section 10.4 Safety Measures. Owner authorizes Tenant to take reasonable safety measures to reduce the risk of damage to the Project Facilities or the risk that the Project Facilities will cause damage, injury, or death. While on the Property, Tenant shall comply with all of Owner's safety policies and procedures.

Section 10.5 Condemnation. If all or part of the Property is proposed to be taken as a result of any action or proceeding in eminent domain, or is proposed to be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain (collectively, a "**Taking**"), then Owner shall provide Tenant with reasonable advance notice of any impending proceeding or meeting related to such Taking of which Owner is aware and shall not in the absence of Tenant settle with the Taking authority or agree on compensation for such Taking. Any award or other compensation ("**Award**") payable as a consequence of such Taking shall be paid as follows:

(a) Owner shall be entitled to receipt from the Award of the value of its fee interest in the portion of the Property taken; and thereafter,

(b) Tenant shall be entitled to receive out of the Award (i) the value of the leasehold estate pursuant to the Lease in the portions of the Property subject to the Taking that would have existed but for the Taking; (ii) the value of the Project Facilities; and/or (iii) any other compensation or benefits payable by law as a consequence of the interruption of Tenant's business and the other costs and expenses incurred by Tenant as consequence of the Taking such as relocation expenses, and thereafter

(c) Owner shall be entitled to any remainder of the Award.

Section 10.6 Notices. Any notices, statements, requests, demands, consents, correspondence, or other communications required or permitted to be given hereunder shall be in writing and shall be given personally, by certified or registered mail, postage prepaid, return receipt requested, or by overnight or other courier or delivery service, freight prepaid, to the address of the Party to be notified as indicated in the Basic Terms (and if to a Lender, the address indicated in any notice to Owner provided under Section 8.2(a) or in any estoppel certificate signed by Owner). If Owner sends any notices or other communications to Tenant pursuant to this Lease Agreement, Owner shall also simultaneously send a copy of such notice or other communication to Sublessee, at the following address: RWE Clean Energy DCE Development, LLC, [SUBLESSEE], at the following address: 100 Summit Lake Drive, Suite 210, Valhalla NY 10595, Attention: Legal Department.

Notices delivered by hand shall be deemed delivered when actually received, and notices sent by certified or registered mail or by overnight or other courier or delivery service shall be deemed delivered and received on the first to occur of (i) three (3) days after deposit in the United States mail or with such overnight or other courier or delivery service, addressed to such address, or (ii) written acceptance of delivery by the recipient. Each Party and any Lender may change its address for receipt of notices by sending written notice hereunder of such change to the other Party (in the case of a Lender, to both Parties) in the manner specified in this Section 10.6. Notwithstanding the foregoing, any amounts payable to Owner under this Lease Agreement shall be deemed tendered three (3) days after a check for the same, addressed to Owner's address above, is deposited in the United States mail, first-class postage prepaid.

Section 10.7 Force Majeure. Notwithstanding any other provision of this Lease Agreement, each Party's obligations under this Lease Agreement (other than monetary obligations, none of which shall be excused or delayed by reason of this Section 10.7) shall be suspended and excused, and the Term, and any other time periods set forth herein shall continue and be extended for a like period of time, while such Party is hindered or prevented, in whole or in part, from complying with any term, covenant, condition, or provision of this Lease Agreement, by any Event of Force Majeure (as defined in the Basic Terms).

Section 10.8 Meetings with Third Persons. During the Term, Tenant and its representatives, agents and contractors shall have the right to meet with governmental agencies and with any other Persons with whom Owner has contractual arrangements in connection with or relating to the Property or any portion thereof, and to discuss with any such Persons the terms of this Lease Agreement, the terms of any contractual arrangements between Owner and any such Person, and any other matters relating to the Property or Tenant's intended use of the Property.

Section 10.9 RESERVED.

Section 10.10 Third Party Beneficiaries. Except with respect to the rights of Sublessee as provided in Section 10.22 below and the rights of Lenders (which Lenders are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the agreements and covenants contained herein are made solely for the benefit of the Parties, their respective successors and assigns, and shall not be construed as benefiting any Person who is not a Party to this Lease Agreement, nor otherwise give rise to any cause of action in any Person who is not a Party hereto.

Section 10.11 RESERVED.

Section 10.12 Covenants Running With the Land. The Property shall be held, conveyed, assigned, hypothecated, encumbered, leased, used, and occupied subject to the provisions of this Lease Agreement, which provisions shall run with the Property, and shall be binding upon and inure to the benefit of the Parties and each other Person having any interest therein during their ownership thereof, and their respective tenants, heirs, executors, administrators, successors, and assigns.

Section 10.13 Governing Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to the choice of law principles thereof.

Section 10.14 Memorandum. Concurrently with execution hereof, the Parties shall execute the Memorandum of Lease and cause it to be acknowledged and recorded in the Real Property Records, and Tenant shall pay all costs (including transfer and recordation taxes and fees) associated with such recordation. If the Memorandum of Lease is recorded, each Party covenants to execute and acknowledge (A) a valid release of such Memorandum of Lease, in recordable form, effective upon the expiration, or earlier termination, of this Lease Agreement (and which may thereupon be recorded by Owner), and (B) an amendment to such Memorandum of Lease, in recordable form, upon any amendment to this Lease Agreement which renders any information set forth within the original Memorandum of Lease incorrect in any material respect (and which may thereupon shall be recorded by Tenant). The provisions of this section shall survive expiration or earlier termination of this Lease Agreement.

Section 10.15 Savings Clause. If any term or provision hereof is held to be invalid, void, or otherwise unenforceable by any court of competent jurisdiction, then the same shall not affect the validity or enforceability of any other term or provision hereof, the terms and provisions hereof being severable.

Section 10.16 No Waiver. The waiver of any covenant, condition, or agreement contained herein shall not constitute a waiver of any other covenant, condition, or agreement herein or of the future performance thereof.

Section 10.17 Entire Agreement; Modifications. This Lease Agreement, including any Schedules attached hereto, contains the entire agreement between the Parties in connection with any matter mentioned or contemplated herein, and all prior or contemporaneous proposals, agreements, understandings, and representations, whether oral or written, are merged herein and superseded hereby. No modification, waiver, amendment, discharge, or change of this Lease Agreement shall be valid unless the same is (i) in writing and signed by the Party against whom the enforcement thereof is sought, and (ii) consented to in writing by Sublessee.

Section 10.18 Multiple Counterparts. This Lease 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.

Section 10.19 Survival. The provisions of this Lease Agreement relating to indemnification from one Party to the other Party, and Tenant's restoration obligations under

Section 6.4, shall survive any termination or expiration of this Lease Agreement. Additionally, any provisions of this Lease Agreement that require performance subsequent to the termination or expiration of this Lease Agreement shall also survive such termination or expiration.

Section 10.20 Cooperation. The Parties agree to reasonably cooperate with each other in the implementation and performance of this Lease Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Lease Agreement. Unless expressly provided otherwise in this Lease Agreement, wherever this Lease Agreement gives a Party a right to determine, require, specify, or take similar action with respect to matters, such determination, requirement, specification, or similar action shall be reasonable.

Section 10.21 Construction. In this Lease Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The terms "include," "includes" and "including" shall be deemed to be followed by the words "without limitation." Both Parties acknowledge that each was actively involved in the negotiation and drafting of this Lease Agreement and that no law or rule of construction shall be raised or used in which the provisions of this Lease Agreement shall be construed in favor of or against either Party because one is deemed to be the author thereof. Captions or titles used herein are for convenience of reference only and do not affect the meaning or intent hereof.

Section 10.22 BESS Sublease.

(a) Owner acknowledges that, per Section 9.1 of this Lease Agreement, Tenant may sublease the Property to Sublessee (the "***BESS Sublease***") at any time on or after the Effective Date. Owner acknowledges that the BESS Sublease shall provide that Tenant subleases the Property to Sublessee in accordance with and subject to the terms of this Lease Agreement. As such, upon execution of the BESS Sublease, Owner hereby acknowledges, consents to, and accepts (i) the BESS Sublease and the grant of rights to Sublessee thereunder, and (ii) the performance by Sublessee of any or all of Tenant's obligations under this Lease Agreement on behalf of Tenant. The BESS Sublease shall not be deemed a breach of this Lease Agreement or otherwise give Owner the right to terminate this Lease Agreement, and this Lease Agreement shall remain in full force and effect for the Term.

(b) Upon the date that the BESS Sublease is executed, Owner agrees to execute and deliver to Sublessee an estoppel, non-disturbance and recognition agreement in substantially the form attached hereto as Schedule C, which Sublessee is hereby authorized to record in the Office of the Clerk of the Rockingham County Circuit Court.

(c) In the event that the BESS Sublease, or any assignment thereof, is terminated, such termination shall constitute an Event of Monetary Default and Owner may exercise Owner's rights accordingly as set forth in Article 8 hereof.

[remainder of this page intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Lease Agreement to be executed and delivered by their duly authorized representatives as of the Effective Date.

OWNER:

THE CITY OF HARRISONBURG, VIRGINIA, THE HARRISONBURG ELECTRIC COMMISSION,
a Virginia municipal corporation.

By:_____
Name: _____
Title: _____

Date Signed: _____

(Tenant's Signature Appears on the Following Page)

TENANT:

VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION NO. 1,
a Virginia nonstock corporation

By: _____
Name: _____
Title: _____

Date Signed:_____

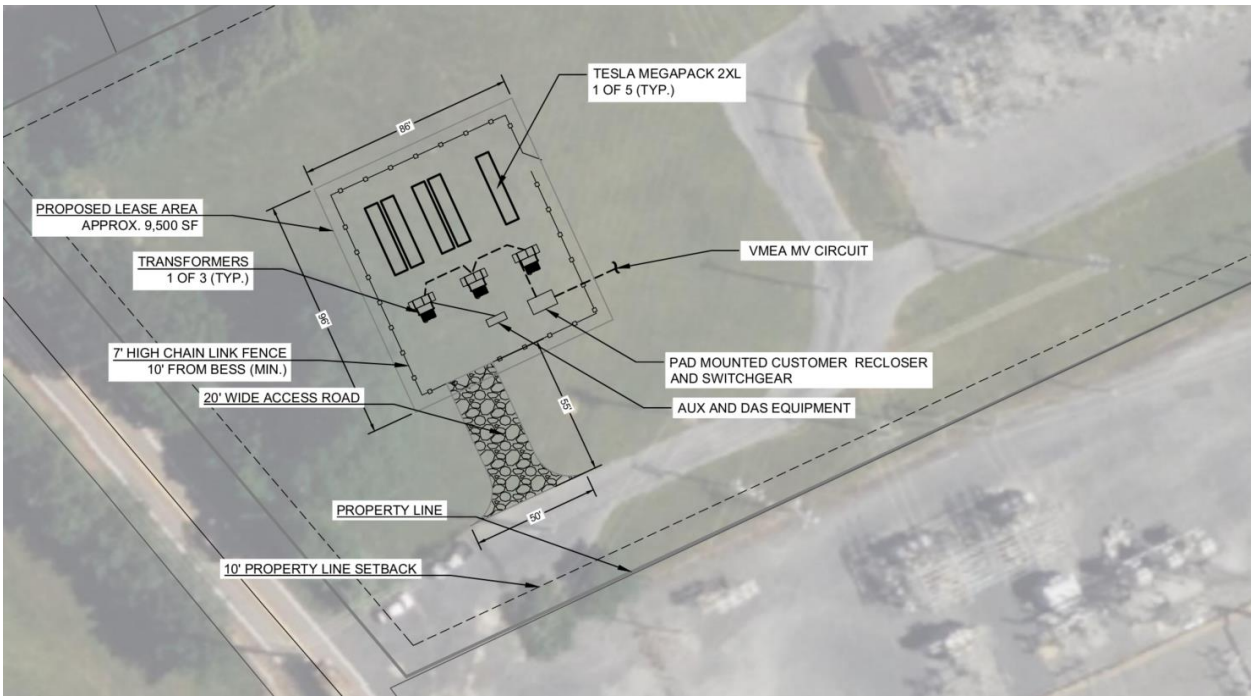
Exhibit 10.2 to Lease Agreement

Parcel 003 A 1 3 B 1 3, which is located across Ramblewood Road from the Property, was formerly used as a landfill from approximately 1970 until 1994. Owner hereby discloses the possibility of environmental matters arising from or relating to the proximity of the Property to the former Landfill.

Schedule A to Lease Agreement

Description of Property

The Property is an approximately 11,000 +/_ square feet portion of the land located at 2230 Ramblewood Road, Harrisonburg, VA. The Property is planned to be that which is contained within the boundaries labeled as "Proposed Lease Area" as depicted on the image below. The exact size and orientation of the Property shall be confirmed during the design and permitting process. Easements for the Access Road and connection to the Utility are anticipated as indicated on the below image.



[remainder of this page intentionally blank]

Schedule B to Lease Agreement

Memorandum of Lease

This instrument prepared by
and after recording return to:

_____
_____
_____
Richmond, Virginia _____

City of Harrisonburg

Tax Map Numbers: _____

Actual Value of Leased Property: $ _____

NOTE TO CLERK: THE RECORDING TAXES DUE ON A MEMORANDUM OF LEASE PURSUANT TO CODE OF VIRGINIA (1950) SECTION 58.1-807(B) IS CALCULATED ON THE BASIS OF THE LOWER OF (A) THE GROSS RENTAL DUE OVER THE LEASE TERM OR (B) THE LEASED PROPERTY'S ACTUAL VALUE. THE LEASED PROPERTY CONSISTS OF PORTIONS OF THE ABOVE-REFERENCED TAX MAP PARCELS HAVING AN AGGREGATE AREA OF _____ ACRES AND AN AGGREGATE PRORATED TAX ASSESSED VALUE OF $ _____. THE GROSS RENTAL DUE OVER THE LEASE TERM EXCEEDS THIS PRORATED TAX ASSESSED VALUE.

MEMORANDUM OF BESS PROJECT GROUND LEASE AGREEMENT

This MEMORANDUM OF BESS PROJECT GROUND LEASE AGREEMENT (this "**Memorandum**") is effective as of the __ day of _____, 20__ (the "**Effective Date**"), by and between the **CITY OF HARRISONBURG, VIRGINIA, THE HARRISONBURG ELECTRIC COMMISSION**, a Virginia municipal corporation, having an address of [89 West Bruce Street, Harrisonburg, Virginia 22801-3699, Attention: Brian D. O'Dell ("**Owner**"), and **VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION NO. 1**, a Virginia nonstock corporation, with an address of 89 West Bruce Street, Harrisonburg, Virginia 22801-3699, Attention: Brian D. O'Dell ("**Tenant**").

WITNESSETH:

That in consideration of the rents, covenants and conditions more particularly set forth in that certain BESS Project Ground Lease Agreement of even date herewith made by and between Owner and Tenant (the "**Lease Agreement**"), Owner and Tenant do hereby covenant, promise and agree as follows:

1. **Defined Terms**. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Lease Agreement.

2. **Property**. Pursuant to the terms of the Lease Agreement, Owner does demise unto Tenant and Tenant does take from Owner for the term (as hereinafter defined) the Property described on Schedule A-1 attached hereto and made a part hereof.

3. **Term**. The Lease Term commenced on the Effective Date. The Lease Term is comprised of a Development and Construction Term of up to one year from the Effective Date and an Operations Term that commences upon the expiration of the Development and Construction Term and expires on the fifteenth (15^{th}) anniversary of the expiration of the Development and Construction Term, unless sooner terminated as provided in the Lease Agreement. Tenant shall have up to six (6) months after the expiration or earlier termination of the Lease Term to complete its restoration obligations contained in the Lease Agreement.

4. **Effect of Memorandum**. The sole purpose of this instrument is to give notice of the Lease Agreement and its terms, covenants and conditions to the same extent as if the Lease Agreement were fully set forth herein. This Memorandum shall not modify in any manner the terms, conditions or intent of the Lease Agreement and the parties agree that this Memorandum is not intended nor shall it be used to interpret the Lease Agreement or determine the intent of the parties under the Lease Agreement.

[REMAINDER OF PAGE BLANK; SIGNATURES FOLLOW]

IN WITNESS WHEREOF, each of the parties hereto has caused this Memorandum to be executed in its name pursuant to due authority.

OWNER:

THE CITY OF HARRISONBURG, VIRGINIA, THE HARRISONBURG ELECTRIC COMMISSION,
a Virginia municipal corporation.

By: _____
Name: _____
Title: _____

Date Signed:_____

STATE/COMMONWEALTH OF _____

CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 202_, by _____ as _____ of the City of Harrisonburg, Virginia, the Harrisonburg Electric Commission, a Virginia municipal corporation, on behalf of such City.

_____
Notary Public

My commission expires: _____
Notarial Registration Number: _____

[Notarial Seal]

TENANT:

VIRGINIA MUNICIPAL ELECTRIC ASSOCIATION NO. 1,
a Virginia nonstock corporation

By: _____
Name: _____
Title: _____

Date Signed:_____

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____, 202_, by _____ as _____ of Virginia Municipal Electric Association No. 1**,** a Virginia nonstock corporation, on behalf of the corporation.

_____
Notary Public

My commission expires: _____
Notarial Registration Number:_____

[Notarial Seal]

Schedule A-1 to Memorandum

The Property

All that certain tract or parcel of land containing 11,000 square feet, more or less, in the location and as shown on the preliminary site plan below (the "Property"). The Property is a portion of that certain real estate acquired by the City of Harrisonburg, Virginia by Certificate of Take dated April 13, 1964, which Certificate is recorded in the land records of the Clerk's Office of the Rockingham County Circuit Court in Deed Book 316, at page 44 (the "Parent Parcel"), which Parent Parcel is described therein as consisting of 1.0406 acres, more or less.

Preliminary Site Plan

Schedule C to Lease Agreement

Form of Estoppel, Non-Disturbance and Recognition Agreement

Prepared by and please return to:
_____
_____
_____

Tax Parcel Nos.: _____

ESTOPPEL, NON-DISTURBANCE AND RECOGNITION AGREEMENT

This Estoppel, Non-Disturbance and Recognition Agreement (this "Agreement"), dated as of [●], 2024, is executed by the **CITY OF HARRISONBURG, VIRGINIA, THE HARRISONBURG ELECTRIC COMMISSION**, a Virginia municipal corporation ("Landowner") for the benefit of **RWE Clean Energy DCE Development, LLC (**"**Sublessee")**, a Delaware limited liability company.

RECITALS

A. Landowner and Virginia Municipal Electric Association No. 1, a Virginia nonstock corporation ("VMEA") have entered into that certain BESS Project Ground Lease Agreement dated as of _____, 202_ (collectively, the "Prime Lease"), which Prime Lease applies to and affects certain real property located in the City of Harrisonburg, Virginia (the "Property"). The Prime Lease is evidenced by that certain Memorandum of Lease dated _____ (the "Prime Lease Memorandum"), such Prime Lease Memorandum being recorded at Book _____, Page _____ in the Clerk's Office of the Rockingham County Circuit Court (the "Clerk's Office"). Reference is made to Schedule A of the Prime Lease Memorandum for a more particular description of the Property. Under the Prime Lease, Landowner leased the Property to VMEA, upon the terms and conditions set forth in the Prime Lease, in order to construct, operate, and maintain a BESS facility (the "Project") on the Property.

B. VMEA and Sublessee have entered into that certain BESS Project Ground Sublease Agreement dated as of _____, 202_ (the "Sublease"), which Sublease applies to and affects the Property, and which Sublease is evidenced by that certain Memorandum of Sublease dated as of _____, 202_, and recorded in the Clerk's Office on even date herewith and prior hereto (the "Sublease Memorandum"). Under the Sublease, VMEA subleased the Property to Sublessee, upon the terms and conditions set forth in the Prime Lease, in order to construct, operate, and maintain the Project on the Property.

C. In connection with the Prime Lease and the Sublease, Landowner agreed to enter into, execute, and deliver this Agreement upon the execution of the Prime Lease and Sublease.

NOW THEREFORE, in consideration of the foregoing, and in recognition that Sublessee is relying on the accuracy of the representations and warranties contained in this Agreement in entering into the Sublease, Landowner and Sublessee hereby acknowledge, agree, represent, and warrant as follows:

AGREEMENT

1. Estoppel. Landowner represents and warrants to Sublessee that:

(a) The execution, delivery and performance by Landowner of this Agreement and the Prime Lease have been duly authorized by all necessary parties on the part of Landowner.

(b) The Prime Lease:

(i) is in full force and effect and constitutes the legal, valid and binding obligation of Landowner, enforceable against Landowner in accordance with its terms;

(ii) has not been amended, assigned, or supplemented, since the date of its execution; and

(iii) represents the entire agreement between Landowner and VMEA regarding the Property.

(c) To Landowner's knowledge, VMEA is not in breach or default of any of its obligations under the Prime Lease; nor do there presently exist any state of facts which, with the passage of time or the giving of notice, would constitute such a breach or default. There do not presently exist any material disputes between Landowner and VMEA under the Prime Lease, and any fees and other sums due and payable under the Prime Lease have been paid through the date of this Agreement.

(d) Landowner is the sole current owner and holder of the fee interest in the Property, and except for the Prime Lease, Landowner has not assigned, sublet, hypothecated, leased, or otherwise transferred its interest, or any portion thereof, in and to the Property or under the Prime Lease, and has not executed any mortgage, deed of trust, or other consensual lien encumbering Landowner's interest in the Property or the Prime Lease.

(e) No voluntary actions or, to Landowner's knowledge, involuntary actions are pending against Landowner under the insolvency or bankruptcy laws of the United States or any other jurisdiction.

2. Non-Disturbance/Attornment. Landowner hereby expressly consents to the Sublease and hereby agrees (i) to accept the performance, fulfilling, and discharge by Sublessee of all duties, terms, conditions, covenants, promises, and obligations required to be kept, performed, fulfilled, or discharged by VMEA under the Lease as if such performance had been made by VMEA, and (ii) Sublessee shall have all the rights granted to VMEA under the Lease as if Sublessee were named "tenant" thereunder. If the Lease is terminated, Landowner shall not name Sublessee in any termination or similar proceeding; possession of the Property will be transferred

subject to the Sublease; Sublessee shall attorn to Landowner; and the Sublease shall bind Landowner and Sublessee to the same extent as though Landowner had been named "sublessor" in the Sublease.

3. Miscellaneous.

(a) This Agreement shall inure to the benefit of the parties and their respective principals, successors and assigns.

(b) This Agreement may be executed and delivered by facsimile or other electronic means (*e.g.*, e-mail transmission of this Agreement in .pdf format) and shall be legally binding on the party so executing and delivering such counterpart, provided that an original signature is delivered thereafter.

(c) This Agreement is executed for the purpose of recordation in the Clerk's Office in order to give notice of the respective rights and obligations of the parties hereto. This Agreement is not a complete summary of the terms of the unrecorded Prime Lease or Sublease. The provisions in this Agreement shall not be used in interpreting the terms of the Prime Lease or the Sublease.

[REMAINDER OF PAGE BLANK; SIGNATURES FOLLOW]

LANDOWNER:

CITY OF HARRISONBURG, VIRGINIA, THE HARRISONBURG ELECTRIC COMMISSION,
a Virginia municipal corporation.

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA }
}
CITY/COUNTY OF _____ }

Before me, a notary public in and for the jurisdiction aforesaid, this ____ day of _____, 202_, appeared _____, who acknowledged that they executed the foregoing instrument in their capacity as _____ of the City of Harrisonburg, Virginia, the Harrisonburg Electric Commission, a Virginia municipal corporation, on behalf of said City.

[SEAL] _____
Notary Public

My Commission Expires: _____

SUBLESSEE:

RWE Clean Energy DCE Development, LLC
a Delaware limited liability company

By: _____
Name: _____
Title: _____

COMMONWEALTH/STATE OF _____}
}
CITY/COUNTY OF _____ }

Before me, a notary public in and for the jurisdiction aforesaid, this ____ day of _____, 202_, appeared _____, who acknowledged that they executed the foregoing instrument in their capacity as _____ of RWE Clean Energy DCE Development, LLC, a Delaware limited liability company, on behalf of said corporation.

[SEAL] _____
Notary Public

My Commission Expires: _____