

DOÑA ANA COUNTY, NEW MEXICO

AND

YUCCA GROWTH INFRASTRUCTURE, LLC

LEASE AGREEMENT

Dated as of October 1, 2025

\$15,000,000,000
Doña Ana County, New Mexico
Taxable Industrial Revenue Bonds
(Project Jupiter)
Series 2025A

TABLE OF CONTENTS

	Page
I.RECITALS	1
I.1. Recitals.....	1
A. The Company has presented to the Board of County Commissioners, the governing body of the Issuer (the “Board”), a proposal whereby the Issuer will construct, acquire, equip and install improvements for a microgrid, power generation, battery storage, and related infrastructure and facilities, located within the County (the “Project”) and whereby the Issuer will issue its Taxable Industrial Revenue Bonds (Project Jupiter) Series 2025 in the maximum aggregate principal amount of \$15,000,000,000 (the “Bonds”) to accomplish the construction, acquisition and installation of the Project;	1
B. The Issuer is authorized under Sections 4-59-1 to 4-59-16 New Mexico Statutes Annotated, 1978 Compilation (the “Act”), to acquire certain projects and issue its industrial revenue bonds in payment therefor and has determined by Ordinance No. 367-2025 (the “Bond Ordinance”) that it is desirable to construct, acquire and improve the Project and has pursuant to the Bond Ordinance authorized the issuance of the Bonds;	1
C. The Bonds are to be issued under an Indenture dated as of October 1, 2025 (together with all amendments and supplements, the “Indenture”) among the Issuer, Yucca Growth Infrastructure Purchaser, a Delaware limited liability company (together with its successors, affiliates and assignees, and permitted transferees of the Bonds, the “Purchaser”), the Company and BOKF, N.A., as Depositary (the “Depositary”);	1
D. The proceeds of the Bonds will be used to finance the construction, acquisition, equipping and installation of the Improvements (as defined in Section 2.1);	1
E. The Leased Property will be leased to the Company under this Lease Agreement (together with all amendments and supplements, this “Lease” or this “Agreement”), which is undertaken by the Issuer and the Company, in part, to provide the property tax, gross receipts tax and compensating tax exemptions described in N.M. Const., Article VIII, Section 3; NMSA 1978, Section 7-36-3 (2024) (including any successor statutes thereto); and Section 4.5 herein;	1
F. The Bonds are to be purchased under a Bond Purchase Agreement dated as of October 28, 2025 (together with all amendments and supplements the “Bond Purchase Agreement”) among the Issuer, the Purchaser and the Company;	1
G. The Issuer deems it desirable, in the best interests of its residents and in accordance with the purposes of the Act, to issue its Bonds and to finance the Leased Property for the purposes described above, pursuant to the Indenture and the Bond Ordinance;	1
H. The Bonds will be special limited obligations of the Issuer payable as provided therein and as provided in the Indenture, and the Bonds will not constitute a debt or indebtedness or pledge of the credit of the Issuer, and the Purchaser or owner of the Bonds will have no right to have taxes levied by the Issuer or to require the Issuer to use any revenues for the payment of the Bonds, except for Revenues (as defined in the Indenture); and.....	2
I. The Company and, as applicable, each of the Subseries 2025B Companies (defined below) and the Subseries 2025C Company (defined below) have separately entered into the Sublease (defined below), pursuant to which the Company will convey certain rights under this Lease to each of the Subseries 2025B Companies and the Subseries 2025C Company.	2
J. The Company and the Issuer each have full right and lawful authority to enter into this Lease and to perform and observe the provisions hereof on their respective parts to be performed and observed.	2
II.DEFINITIONS AND RULES OF CONSTRUCTION	2

- A. The captions and headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.7
- B. All references in this Lease to particular articles, sections or exhibits are references to articles or sections of or exhibits to this Lease unless some other reference is established.7
- C. Any inconsistency between the provisions of this Lease and the provisions of the Indenture will be resolved in favor of the provisions of the Indenture.7

III. REPRESENTATIONS7

- A. The Issuer is a county and political subdivision organized and existing under and pursuant to the laws of the State of New Mexico (“State”) and is authorized by the Act to acquire, own, lease or sell projects for the purpose of promoting industry and trade by inducing manufacturing, industrial and commercial enterprises to locate or expand in the State, and promoting a sound and proper balance in the State between agriculture, commerce and industry. The Issuer has the power under the Act to enter into the transactions contemplated by this Lease, the Indenture and the Bond Purchase Agreement and to carry out its obligations hereunder and thereunder. By proper action, the Issuer has duly authorized the execution and delivery of this Lease, the Indenture and the Bond Purchase Agreement.7
- B. The Issuer has duly authorized by the Bond Ordinance adopted at a meeting duly called and held, by the affirmative vote of not less than a majority of all of the members of its Board of County Commissioners (the “Governing Body”), the execution, delivery and performance of the Bond Documents, the Bonds and the issuance of the Bonds, all for the purpose of financing the Project including without limitation the acquisition of the Leased Property and paying certain costs related to the issuance of the Bonds.8
- C. The Issuer will lease the Leased Property to the Company and will sell the Leased Property to the Company upon the Company’s exercise of its option to purchase the Leased Property, all for the purpose of promoting industry and trade by inducing the Company to locate the Project in the State and to promote a sound and proper balance in the State between agriculture, commerce and industry.8
- D. To finance the Costs of the Project (as defined in the Indenture), the Issuer will issue the Bonds. The Bonds shall mature, bear interest and have such other terms and conditions as are set forth in the Indenture.8
- E. The Bonds are to be issued under and secured by the Indenture, pursuant to which the Issuer’s interests in this Lease (with certain exceptions) and the revenues and receipts derived by the Issuer from the leasing or sale of the Leased Property (with certain exceptions) will be pledged and assigned to the Purchaser as security for payment of the principal of, premium, if any, and interest on the Bonds.8
- F. The Issuer is in good financial health, is not insolvent, is not currently subject to any voluntary or involuntary bankruptcy proceedings, and under current New Mexico law, does not have the legal capacity or ability to file for bankruptcy protection under the United States Bankruptcy Code or applicable state or federal law. Further, the Issuer is solvent, meaning it is able to pay its debts as they become due in the ordinary course of business and has not made any assignment for the benefit of creditors or admitted in writing its inability to pay its debts as they mature.8
- G. The Issuer further covenants and agrees that, during the Term of this Lease, the Issuer will use its best efforts to maintain its financial health and solvency throughout the Term of this Lease and will use reasonable, good faith efforts to notify the Company prior to any insolvency hearing of Issuer.8
- H. The execution, delivery and performance of the Issuer of the Bond Documents will not conflict with or create a material breach of or material default under the Act or any other law, rule, regulation or ordinance applicable to the Issuer or any agreement or instrument to which the

	Issuer is a party or by which it is bound, and there is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body, pending against the Issuer, which seeks to or does restrain or enjoin the issuance and delivery of the Bonds or the execution and delivery of any of the Bond Documents or in any manner questions the validity or enforceability of the Bonds or any of the Bond Documents.....	8
I.	To the knowledge of the Issuer, no member, officer or other official of the Issuer has any pecuniary interest whatsoever in the Company or the transactions contemplated by this Agreement.....	9
III.2.	Company Representations.	9
	The Company represents that, as of the date of delivery of this Lease:	9
A.	The Company is a limited liability company duly organized and validly existing under the laws of Delaware qualified to conduct business and in good standing under the laws of the State, and has duly authorized the execution, delivery and performance of this Lease, the Sublease, the Indenture and the Bond Purchase Agreement.....	9
B.	The Company has full legal right, power and authority to carry out and consummate the transactions contemplated by this Agreement, the Indenture and the Bond Purchase Agreement and to incur and perform the obligations provided for therein, all of which have been duly authorized by all proper and necessary action on the part of the Company.	9
C.	The execution, delivery and performance by the Company of this Lease, the Indenture, and the Bond Purchase Agreement and the application by the Company of the proceeds of the issuance and sale of the Bonds as provided in the Bond Documents do not and will not conflict with, contravene, violate or constitute a breach of or default under its organizational documents or operating agreement or, to the Company's knowledge, any law, rule, regulation, ordinance, order, consent decree, or any material agreement or instrument to which the Company is a party or by which it or its properties or the Leased Property is bound or any law, rule, regulation, ordinance, order, consent, or decree, applicable to the Company, its properties or the Leased Property. The Company has not received any written notice that the Project is not in material compliance with all laws and regulations to which it is subject. The Company has not received any written notice of any currently existing violation of any zoning, land use, environmental or other similar law or regulation applicable to the Project Site.....	9
D.	This Agreement, the Sublease, the Indenture and the Bond Purchase Agreement constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general principles of equity.....	9
E.	To the knowledge of the Company, all necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Company of this Lease, the Sublease, the Indenture, and the Bond Purchase Agreement have been obtained or will be obtained prior to issuance of the Bonds.....	10
F.	No lawsuit was filed and pending before the Third Judicial District Court of New Mexico or the United States District Court for the District of New Mexico against the Company between August 26, 2025 through October 24, 2025, which (i) seeks to or does restrain or enjoin the issuance or delivery of the Bonds or the execution and delivery of this Agreement, the Sublease, the Indenture, or the Bond Purchase Agreement, (ii) in any manner questions the validity or enforceability of the Bonds, this Lease, the Indenture, or the Bond Purchase Agreement, or (iii) questions the authority of the Company to lease the Leased Property, operate the Leased Property or sublease the Leased Property to the Series 2025B Companies or the Series 2025C Company pursuant to the Sublease.....	10
G.	The agreement by the Issuer to issue the Bonds and to lease the Leased Property to the Company has induced the Company to undertake the Project and to locate its business in Doña	

	Ana County, New Mexico.	10
H.	The Company intends to operate the Leased Property so as to qualify as a “project” as defined in the Act to the later of the payment in full of the principal of, premium, if any, and interest on the Bonds and the expiration or early termination of the Term of this Lease as provided herein as a microgrid, power generation, battery storage, and related infrastructure and facilities so as to qualify the Improvements, as applicable, for the deduction from gross receipts tax or governmental gross receipts tax and the exemption from compensating tax pursuant to Section 7-9-54 NMSA 1978, as amended. The Company will not use or operate the Project, or permit the Project to be used or operated in any way which would adversely affect the qualification of the Project as a “project” under the Act.	10
I.	As agent for the Issuer, the Company proposes to construct, acquire and install the Improvements which the Company intends to qualify for the tax-exemptions pursuant to Section 7-9-54 NMSA 1978, as amended. The Company shall have the sole responsibility for the construction, acquisition and installation of the Improvements, and may perform the same, by itself or through affiliates, agents, contractors, subcontractors or others selected by it, in whatever lawful manner it deems necessary or advisable. With respect to such construction, acquisition and installation, the Company shall procure from the appropriate State, county, municipal and other authorities and corporations, utility connection and discharge arrangements for the adequate supply of water, gas, electricity, sewage, and other services for the operation of the Project. The acquisition, construction and installation of the Leased Property by the Company and the operation thereof will comply in all material respects with applicable zoning, planning, building, environmental and other regulations of the governmental authorities having jurisdiction over the Project, and all permits, licenses, consents and permissions necessary for the Project have been or will be obtained in due course.	10
J.	None of the proceeds of the Bonds will be used to provide working capital.	11
K.	The Project is an electric generation facility and battery storage facility which and will use reasonable, good faith efforts to notify the Company prior to any insolvency hearing understands does not require both location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the New Mexico Public Utility Act, NMSA 1978, Sections 62-3-1 to -5.	11
L.	The Improvements will be located on the Project Site which is within the boundaries of the Issuer but outside the boundaries of any municipality.	11
M.	This Lease will serve as a financing agreement from which revenues will be derived for the purpose of providing payment for the account of the Issuer of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on the Bonds, and providing that the Company shall be obligated to pay for the maintenance of and insurance or meet self-insurance requirements on the Project as required by the Act.	11
N.	The Company has the economic ability to meet all of the financial obligations imposed upon the Company under this Lease.	11
O.	To the knowledge of the Company, no officer or other official of the Issuer has any interest of any kind in the Company which would result, as a result of the issuance of the Bonds, in a substantial financial benefit to such persons other than as a member of the general public of the State. 11	
P.	The Company has heretofore supplied the Issuer estimates of the Costs of the Project and the Completion Date. The Company hereby warrants that such estimates for the Project were made in good faith and are fair, reasonable and realistic but are subject to revision as the Leased Property is constructed, acquired and installed due to foreseen and unforeseen circumstances; provided, however, Costs of the Project in excess of the proceeds of the Bonds shall be funded by the Company from other sources.	11

- Q. The Company shall cause to be paid all costs of the Leased Property in excess of the moneys available therefor in the Acquisition Account. The Company acknowledges that the Issuer has made no warranty or representation, express or implied that the amount in the Acquisition Account will be sufficient to pay the Costs of the Project or that the Leased Property will be suitable for the Company's needs.11
- R. To the knowledge of the Company, no representation made by the Company in this Agreement and no statement made by the Company in any written information, material or report furnished to the Issuer or the Purchaser in connection with the transactions contemplated by this Agreement contains or contained, any untrue statement of a material fact, or omits or omitted, to state a material fact necessary to make the representation or statement, in light of the circumstances under which it was made, not misleading.11
- S. To the knowledge of the Company, no representation made by the Company in this Agreement and no statement made by the Company in any written information, material or report furnished to the Issuer or the Purchaser in connection with the transactions contemplated by this Agreement contained, when made, any untrue statement of a material fact, or omitted, when made, to state a material fact necessary to make the representation or statement, in light of the circumstances under which it was made, not misleading.12
- T. The Company offers and will offer at all times during the Term of this Lease its employees and their dependents health insurance coverage that is in compliance with the New Mexico Insurance Code and contributes not less than fifty percent (50%) of the premium for health insurance for employees, who choose to enroll.12

The representations of the Company in this Section 3.2 and in any certificate or other instrument delivered by the Company pursuant to any of the Bond Documents or in connection with the transactions contemplated by the Bond Documents are accurate as of the Effective Date, and to the extent that a change in circumstances occurs that would cause any of these representations to become untrue, the Company will notify the Issuer within ten (10) days upon the Company becoming aware that such representation is no longer true.12

IV.THE PROJECT12

- IV.1. Construction, Acquisition, Installation and Completion.....12
- IV.2. Plans and Specifications; Changes.13
- IV.3. No Warranty.14
- IV.4. Completion Date.....14
- IV.5. Gross Receipts and Compensating Tax.....15
- A. The Company, either on its own behalf or as agent for the Issuer pursuant to Section 4.1 and this Section 4.5, will file returns for reporting and paying any gross receipts tax or compensating tax which is due related to the Project. The Company, as agent for the Issuer, will apply to the TRD for nontaxable transaction certificates (as such term is used in the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9, NMSA 1978, as amended) ("Nontaxable Transaction Certificates"). Nontaxable Transaction Certificates shall be executed and delivered by the Company, as agent for the Issuer, to vendors, in order to permit the vendors to claim deductions available under the New Mexico Gross Receipts and Compensating Tax Act for the vendors' receipts from the Company, as agent for the Issuer, for sales of the Improvements. To the extent consistent with State law, the Issuer will cooperate with the Company in the obtaining of Nontaxable Transaction Certificates. The Company will pay within any statutory deadlines any gross receipts or compensating tax plus applicable penalty and interest that is found by the TRD to be due from the Company or the Issuer with respect to the Project. The Company, at its sole expense, may request any rulings from the TRD which the Company determines may be

	necessary or desirable to clarify the New Mexico gross receipts and compensating tax implications of transactions related to the Improvements and may dispute, at its sole expense, in any manner authorized by the New Mexico Tax Administration Act or other applicable procedures, any gross receipts or compensating tax liability imposed on the Company or the Issuer because of the Project. The Issuer agrees, at the request and expense of the Company, to make reasonable modifications to this Lease that are necessary or desirable to obtain Nontaxable Transaction Certificates or otherwise reduce the gross receipts and compensating tax imposed upon the Company or the Issuer as a result of the Project or its operation.	15
B.	The Company has advised the Issuer and it is intended by the parties hereto that the receipts of vendors from the sale of tangible personal property to the Issuer, which tangible personal property (i) is included in the Improvements (but excluding certain “construction material” as provided for in Section 7-9-3.4(B) NMSA 1978, as amended and modified at Section 7-9-54(A) (3) NMSA 1978) and (ii) is purchased or reimbursed with proceeds of the Bonds on or prior to the Completion Date, shall be deductible from gross receipts or governmental gross receipts, and exempt from compensating tax, to the fullest extent permitted by Sections 7-9-14 and 7-9-54 NMSA 1978, as amended, and applicable regulations. The deduction from gross receipts or governmental gross receipts, and the exemption from compensating tax, shall not apply to purchases of Improvements except as provided in the preceding sentence, and, except as contemplated in the preceding sentence, the Company shall not be authorized by this Lease to provide Nontaxable Transaction Certificates to vendors.	15
IV.6.	Termination of Lease or Cessation of Operations; Assessment in the Company’s Name.	16
IV.7.	Compliance with Law.	16
IV.8.	Nuisance Not Permitted.	17
IV.9.	Taxes and Utility Charges.	17
IV.10.	Maintenance.	17
IV.11.	Replacement and Removal of Leased Property.	17
IV.12.	Eminent Domain; Damage; Destruction.	18
IV.13.	Insurance.	18
IV.14.	Access and Inspection.	19
IV.15.	Liens.	19
IV.16.	Use of Project; Project and Closure Claw-Backs.	19
A.	The Company will use the Project continuously during the Term so as to constitute a “project” within the meaning of the Act as in effect on the date of issuance of the Bonds. As used in this Section 4.16, “continuously” means regularly and without an employment loss during any 90-day period of 75% or more of the non-construction jobs at the Project for the immediately prior year. Temporary cessation of operations shall not constitute a failure by the Company to comply with this Section 4.16(A) if such temporary cessation is (i) during holiday periods or as a result of maintenance or renovation of the Leased Property or other similar circumstances, in each case without an employment loss during any 90-day period of 75% or more of the non-construction jobs at the Project for the immediately prior year; or (ii) as a result of Force Majeure (collectively, the “Temporary Cessation or Interruption of Operations”).	19
B.	If the Company fails to use the Project consistent with the definition of “project” as defined by the Act as in effect on the date of issuance of the Bonds, the Company shall pay to the Issuer an amount equal to all ad valorem taxes abated as a result of the Leased Property being owned by the Issuer for the year in which such failure occurs, less all amounts paid by the Company pursuant to Section 5.10 (the “Project Claw-Back”) and the Issuer shall be entitled to terminate the Lease.	20
C.	In the event of a temporary cessation of operations permitted by the third sentence of subsection A of this Section 4.16, the Company shall use its best efforts to resume operations of the Project so as to constitute a “project” within the meaning of the Act. Failure to resume operations of the	

	Project by not later than 12 months from the expiration of the 30-day period referred to in subsection A or from the cessation of the event of Force Majeure shall constitute a failure to comply with subsection A of this Section 4.16. In such event, the Company shall pay to the Issuer, not later than 30 days after expiration of the 12-month cure period referred to above, an amount equal to all ad valorem taxes abated as a result of the Leased Property being owned by the Issuer for the year in which such failure occurs, less all amounts paid by the Company pursuant to Section 5.10 (the “Closure Claw-Back”). For purposes of this subsection, in the event of a Force Majeure, operations include the repair or rebuilding of the Project.	20
D.	If the Company permanently ceases operations in the County on or before October 1, 2030, the Company will repay to the Issuer the percentage shown below of the ad valorem taxes on the Leased Property that the Company would have been required to pay if the Bond had not been issued by the Issuer and the Leased Property had been subject to ad valorem taxation. The abated tax shall be calculated using mill levies and actual property tax valuations and rates for each tax year. All PILOT attributable to this Lease, PILOT Increases (defined below), Project Claw-Backs previously made by the Company to the Issuer will be credited towards the payment of such amount.	20
IV.17.	Easements.	21
IV.18.	Local Hiring.	21
IV.19.	Local Purchasing.	21
IV.20.	PILOT Increase.	21
A.	If the sum of full-time equivalent employees and 50% of part-time employees attributable to the Project is less than (i) 45 on December 31, 2029, (ii) 75 on December 31, 2030 and (iii) 75 on December 31, 2031 (each such employment figure a “Job Target” and each such date a “Job Target Date”), as set forth in the annual report of the Company to the Issuer pursuant to Section 4.21, and such employment shortfall is not cured prior to February 28 of the calendar year following such Job Target Date (the “Employment Cure Period”), then the Issuer may require an increase to the Company’s PILOT due pursuant to Section 5.10 until the Job Target requirements are satisfied (the “PILOT Increase”). The amount of the PILOT increase will not exceed the maximum applicable percentage (the “Applicable Percentage”) shown below, and such amount shall be calculated by multiplying the Applicable Percentage to the PILOT due pursuant to Section 5.10 for the year immediately following the applicable Employment Cure Period. The Company may report jobs pursuant to this section that are employed by third parties but present at the Project. The job requirements in this Section are for the entire data center campus as explained in the annual report described in Section 4.21. For the avoidance of doubt, a job may be reported only once across all Subseries 2025B Leases and this Lease.	21
	In the event that the Issuer determines there is a substantial shortfall of actual versus projected jobs, then the Issuer may require a PILOT increase for the year immediately following the applicable Employment Cure Period to the extent provided for in the table above.	23
IV.21.	Annual Report.	23
IV.22.	Outstanding Principal Amount Report.	23
IV.23.	Data Protection.	23
A.	Covered Data. Between the Issuer and the Company, all Covered Data and Leased Property transmitting or containing Covered Data will be solely under Company’s control, and Issuer shall not have any rights to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over or ownership or other rights to any Covered Data. In the event Issuer receives any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Covered Data, Issuer will immediately and in no event later than five (5) Business Days notify Company and provide Company with any information it has or receives in relation to such claim, inquiry, request or legal demand and provide Company with any reasonable assistance requested by Company to	

	address such claim, inquiry, request or legal demand as determined in the sole discretion of the Company and to ensure that the Covered Data is treated as confidential information of Company and to afford Company a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such claim, inquiry, request or legal demand. Under no circumstances may Issuer access and/or provide such Leased Property or Covered Data to any third party, including any governmental entity, whether in response to any claim, inquiry, request or legal demand from such third party or otherwise.	23
B.	Software. The Issuer acknowledges that the Company Software is proprietary to Company and is to be used solely by Company. Issuer receives no license or other rights to the Company Software. The Issuer shall not access, appropriate, or otherwise use the Company Software and agrees not to disclose or otherwise make available the Company Software and/or related technology to any third parties.....	24
C.	Security Incidents. Between the Issuer and the Company, the response to any and all Security Incidents (including, without limitation, all remediation and preventative efforts) will be solely under Company’s control. Issuer shall notify Company promptly and in no event later than one (1) Business Day following its actual discovery of any Security Incident that Company has not previously alerted Issuer to and that has not previously been publicly disclosed (either by or on behalf of Company or by a third party). Issuer agrees that it will not communicate with any third party (including, but not limited to, any governmental entity, the media, vendors, or consumers) regarding any Security Incident without the express written consent and direction of Company, except as required by applicable law; provided, however, nothing herein shall prevent the Issuer from retaining and conferring with counsel for the Issuer, at the sole expense of the Company. Upon Company’s request, pursuant to Company’s instruction, and at Company’s sole cost and expense, Issuer shall reasonably support Company in its response to the Security Incident, including, without limitation, assistance with or the performance of all reasonably necessary and corrective action.	24
IV.24.	Confidential Information.	24
A.	The Issuer acknowledges and agrees that:.....	24
IV.25.	Stored Data.	25
A.	The Issuer acknowledges and agrees that:.....	25
IV.26.	Limitation on Claw-Back Under this Agreement.	26
	Issuer and Company acknowledge that the Company is relying on the benefits provided for in this Agreement to incur the expenses necessary for the success of the Project. Accordingly, Issuer and Company agree, that in no event shall Company be denied the ability to obtain or retain any such benefits (i) unless Company has first received notice with sufficient time to cure any Event of Default or Claw-Back in accordance with any requirements under this Agreement with sufficient time to cure any Event of Default or Claw-Back pursuant to any cure periods provided pursuant to this Agreement, or (ii) if any failure by Company to satisfy any obligations contained herein was inadvertent, unintentional, or immaterial and is promptly remedied to comply with the provisions of this Agreement. For the avoidance of doubt, this Section shall not be construed or interpreted to modify any other provision of this Agreement including, but not limited to any provision related to notice, cure periods, or procedures related to defaults as agreed to by the Parties herein.	26
IV.27.	Existence. Unless its successor or the transferee of its assets, as the case may be, assumes in writing all of the obligations of the Company under the Bond Documents, the Company will maintain its existence as a limited liability company and will not dispose of all or substantially all of its assets, other than through execution of this Agreement. The Company shall have the right to change its organizational structure (including, without limitation, a merger with another entity), provided such restructured organization or surviving entity (if other than the Company) assumes in writing all of the obligations of the Company under the Bond Documents. Original executed copies of such assumption will be delivered to each of the other Parties on or before	

the effective date of such succession or transfer. To the extent necessary under State law, the Company and its successors or transferees will become and remain authorized to transact business in the State and, if applicable, in good standing in the State.....27

V.LEASE; TERM; POSSESSION; RENT; INDEMNIFICATION; ISSUER PAYMENT27

V.1.	Lease of the Leased Property; Term.	27
V.2.	Quiet Enjoyment.	27
V.3.	Rent. 27	
A.	The Company will pay to the Purchaser for the account of the Issuer, such amounts at such times as are necessary to make all payments of principal of, interest on and any redemption price of the Bonds in accordance with the terms of the Bonds and the Indenture as and when due (collectively, the “Basic Rent”). The parties acknowledge that the Company may pay, discharge and redeem the Bonds for the account of the Issuer by offsetting amounts owed under the Bonds to the Purchaser against monies due and payable to the Company by the Purchaser, including but not limited to monies advanced by or on behalf of the Company to or on behalf of the Purchaser in anticipation of making advances on the Bonds under the Indenture;	27
B.	The Company will also make the following payments (the “Additional Payments” and, together with the Basic Rent, the “Rent”):.....	28
C.	Each of Company, Issuer, and Purchaser (each a “Party”) agrees that, to the fullest extent permitted by applicable law, if at any time amounts are owing by a Party to the other Party under this Agreement (except as provided below with respect to the Issuer) or any other agreement between the same two parties, such Party may set off and apply any and all such amounts (whether now existing or hereafter arising, whether due or to become due, and whether liquidated or unliquidated but then determinable) against any and all amounts then owed by the other Party to such Party under this Agreement or any other agreement, in each case producing a single net amount owed by one Party to the other; provided, however, the only amount that may be offset with respect to the Issuer pursuant to this Agreement or any other agreement between the Issuer and any other Party shall be the Basic Rent payments due from the Company which have been assigned to the Purchaser. The Parties state their intent to settle on a net basis to the extent legally enforceable; provided that such settlement on a net basis shall be permitted between the Issuer and any other Party solely with respect to Issuer’s interest in the Basic Rent, if any, and will not apply to any other interest of the Issuer, including without limitation Issuer’s interest in the Reserved Rights and any fees owed to the Issuer. Any Party exercising setoff shall give prompt notice to the other Party (which notice may be provided after the fact or due to the related nature of the Company and Purchaser, be implicit by action), and shall provide reasonable supporting calculations upon request. The rights in this Section are continuing, unconditional, and survive termination of this Agreement and any other agreement.	29
V.4.	Obligations Unconditional.	29
V.5.	Filing; Further Assurances.	30
V.6.	Claims.	30
V.7.	Indemnity, Expenses.	30
A.	To the extent not caused or occasioned by the gross negligence or willful misconduct of the Indemnified Persons or any Indemnified Person (as such terms are defined below), the Company shall indemnify and hold the Issuer and its governing body, officers, agents, and employees or other elected or appointed officials of the Issuer, past, present or future (hereinafter, the “Indemnified Persons” or “Indemnified Person”) harmless from and against any and all claims, damages, demands, expenses, liabilities and losses of every kind, character and nature asserted by or on behalf of any person in connection with (i) the issuance, offering, sale, delivery, or remarketing of the Bonds, including but not limited to any liability that may arise under federal or New Mexico securities laws as a result of inaccurate information supplied	

by the Company in connection with the issuance of the Bonds or any subsequent sale of the Bonds, the Indenture, this Lease, and any documents executed in connection with the Bonds and the Leased Property and the obligations imposed on the Issuer hereby and thereby or the Issuer's legal ownership or leasing of the Leased Property; or the construction, equipping, acquisition, installation, operation, use, occupancy, maintenance, or ownership of the Leased Property; (ii) any written statements or representations made or given by the Company or any of its officers or employees or any affiliate to the Indemnified Persons or an Indemnified Person with respect to the Company, the Leased Property, the Project, or the Bonds, including, but not limited to, statements or representations of facts, financial information, or corporate affairs or any breach or default on the part of the Company in the performance of any representation, covenant or agreement of the Company under this Lease, or any related document, or arising from any acts or failure to act by the Company, or any of its agents, contractors, servants, employees or licensees; (iii) damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Leased Property; (iv) any loss or damage to property or any injury to or death of any natural person that may be occasioned by any cause whatsoever relating to the operation, installation, maintenance and use of the Property; (v) suits, legal or administrative proceedings, demands, losses, liabilities, damages, claims, causes of action, costs and expenses resulting from or in any way connected with any noncompliance with Applicable Environmental Laws including, but not limited to, the presence, release or disposal in or under the Project Site of, any hazardous substances (as defined in CERCLA), hazardous wastes (as defined in RCRA), oils, radioactive materials, asbestos in any form or condition, any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any Applicable Environmental Law; (vi) any loss, claim, action, damage, proceeding, liability, penalty, reasonable and documented litigation expenses, attorneys' fees or court costs arising out of or in any way relating to or arising out of or in connection with a Security Incident or disclosure of Confidential Information; (vii) any other loss, claim, damage, penalty, liability, disbursement, reasonable and documented litigation expenses and attorneys' fees or court costs arising out of or in any way relating to the execution of performance of this Agreement, actions taken under the Indenture, the ownership or leasing of the Leased Property or any other cause whatsoever pertaining to the Leased Property; (viii) any claim, action or proceeding brought with respect to the matters set forth in clauses (i) through (vii) and (ix) any loss or damage incurred by the Issuer as a result of violation by the Company of the provisions of Section 3.2, or arising out of, resulting from, or in any way connected with, the condition, use, possession, conduct, management, planning, design, construction, acquisition, installation and renovation or sale of the Leased Property or any part thereof or other requirements of this Lease. The Company also covenants and agrees, at its expense, to pay, and to indemnify the Indemnified Persons from and against, all costs, reasonable and documented attorney fees, expenses and costs incurred in any suit, action or proceeding brought by reason of any such claim.30

- B. Notwithstanding the fact that it is the intention of the parties that the Issuer will not incur pecuniary liability by reason of this Lease or the undertakings of the Issuer under this Lease, by reason of the issuance of the Bond, the execution of the Bond Documents, the performance of any act required of it by the Bond Documents, the performance of any act related to the Project, the Bond Documents or the Bond requested of it by the Company or its position as owner or lessor of the Leased Property, nevertheless if the Issuer or Indemnified Person incurs any such pecuniary liability or the same is claimed or sought, then in such event the Company will indemnify and hold harmless the Issuer and any Indemnified Person against all claims by or on behalf of any person arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Issuer or Indemnified Person, the Company will defend the Issuer and

	Indemnified Person in any such action or proceeding. The Company shall also indemnify the Issuer or any Indemnified Person for all reasonable and documented costs and expenses, including reasonable and documented counsel fees and expenses, incurred in: (i) enforcing any obligation of the Company under this Lease or any related agreement, (ii) taking any action requested by the Company, including but not limited to, assigning, amending or terminating this Lease or any related agreement (iii) taking any action required by this Lease or any related agreement or (iv) taking any action considered necessary by the Issuer and which is authorized by this Lease or any related agreement.....	33
C.	The provisions of this Section 5.7 will be enforceable by the Issuer to the full extent permitted by law. The obligations of the Company under this Section 5.7 shall survive any assignment or termination of this Lease, the discharge of the Indenture or the resignation or removal of the Depositary or the termination of its duties.....	33
D.	To the extent, if at all, that any provision requiring one party to indemnify, hold harmless, insure or defend another party (including such other party's employees or agents) contained herein or in any related documents is found to be within the scope of Section 56-7-1 NMSA 1978, as amended from time to time, or in any way subject to, or conditioned upon consistency with, the provisions of Section 56-7-1 NMSA 1978, as amended from time to time, for its enforceability, then such provision, regardless of whether it makes reference to this or any other limitation provision, (a) shall not extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee or additional insured, as the case may be, its officers, employees or agents, and shall be further modified, if required by the provisions of Section 56-7-1(B) NMSA 1978, as amended from time to time; (b) be enforced only to the extent that the liability, damages, losses or costs are caused by, or arise out of, the acts or omissions of the indemnitor or its officers, employees or agents; and (c) be further modified, if required, by the provisions of Section 56-7-1 (B) NMSA 1978, as amended from time to time. Further, notwithstanding any other term or condition of this Lease, to the extent, if at all, that any agreement, covenant or promise to indemnify another party (including such party's employees or agents) contained herein or in any related documents, is found to be within the scope of Section 56-7-2 NMSA 1978, as amended from time to time, or in any way subject to, or conditioned upon consistency with, the provisions of Section 56-7-2 NMSA 1978, as amended from time to time, for its enforceability, then regardless of whether it makes reference to this or any other limitation provision, such agreement is not intended to, and it does not, indemnify such indemnitee against loss or liability for damages arising from:	33
E.	The Company will not be obligated to indemnify the Issuer or any other Indemnified Person(s) under subsections (A) and (B) of this Section 5.7, to the extent any Losses are caused or occasioned by the gross negligence or willful misconduct of the Issuer or any other Indemnified Person(s) or if a court of competent jurisdiction finds that the Losses in question were caused by the willful misconduct or gross negligence of the Issuer or the involved Indemnified Person(s)...	34
V.8.	Environmental Matters.	34
V.9.	Indenture Provisions.	35
V.10.	Issuer Payment; Community Benefits Agreements.	35
VI.	ASSIGNMENT, LEASING AND SELLING	36
VI.1.	Assignment of Rights by the Issuer.	36
VI.2.	No Other Transfer by Issuer.	37
VI.3.	Assignment, Lease, Encumbrance or Sale Involving the Company.	37

A.	The Company may assign, lease, sublease, pledge and sell its interests in this Lease to the Subseries 2025B Companies and the Subseries 2025C Company upon notice to the Issuer, but without the Issuer’s consent or approval, and the Sublease does not and will not conflict with this Lease; provided that pursuant to any such assignment, lease, sublease, pledge or sale of the Company’s interests in the Lease, except for Sublease, the Company shall either remain obligated to the performance of its obligations under the Lease, or the Series B Companies and/or Series 2025C Company, as applicable, shall assume all of the obligations of the Company under this Lease; and further provided that any such assignment, lease, sublease, pledge or sale does not affect the status of the Project as a “project” under the Act.	37
B.	In addition to the authorization provided in Section 6.3(A) hereof, if the Company is not in default under this Lease or the Indenture, the rights of the Company under this Lease may be assigned, and the rights of the Company in the Leased Property may be assigned, leased, subleased, pledged or sold as a whole or in part by the Company. No such assignment, lease, sublease, pledge or sale will relieve the Company from liability for making payments of Rent, PILOT, Community Benefits Obligations or the Additional Payments and for the performance of its other obligations under this Lease to the same extent as though no assignment, lease, sublease, pledge or sale had been made, unless the requirements in Section 6.3(C) are met and: (i) such assignment, lease, sublease, pledge or sale is to an affiliate (as such term is used in regulations pursuant to the Securities Exchange Act of 1934) of the Company, or (ii) such assignment is made to a person or entity having net assets or a net worth of at least equal to the lesser of (1) the net assets or net worth of the Company at the time of such transaction or (2) 10% of the fair market value of the Leased Property at the time of such transfer, or (iii) such assignment is made with the written consent of the Issuer and the Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed. If an assignment is made to a person or entity that qualifies under clause (i) or (ii) of this Section 6.3(B), then, in such event, the Company, as transferor, shall be relieved from all further liability under this Lease from and after the effective date of such assignment and the transferee shall thereafter be the “Company” for all purposes hereunder. If a transfer is consented to by the Issuer and the Purchaser under clause (iii) of this Section 6.3(B), then, in such event, the transferee shall thereafter be the “Company” for all purposes, but the transferor shall be relieved of all further liability under this Lease from and after the effective date of such transfer only to such extent as may be set forth in such consent. To the extent required by the Purchaser or Issuer, any assignee, lessee, sublessee or purchaser of all of the Company’s interest in this Lease or of the Leased Property will assume in writing the obligations of the Company under this Lease. The foregoing shall not be construed to impose any restriction on the transfer of equity interests in the Company.	37
C.	Assignment requirements for assignments pursuant to Section 6.3(B) hereof:.....	38
VI.4.	Company Financing Liens.	38
VII.	EVENTS OF DEFAULT AND REMEDIES	39
VII.1.	Events of Default Defined.	39
A.	Failure by the Company to make any Rent payment when due, and such failure continues for a period of five (5) Business Days with respect to Basic Rent, or thirty (30) Business Days with respect to PILOT Payments, Community Benefits Obligations and Additional Payments after written notice from the Issuer or the Purchaser of such failure is provided to the Company.....	39
B.	Any Bond Document delivered by the Company, or any certificate or other document delivered pursuant to any Bond Document delivered to any of the other Parties in connection with the transactions contemplated by any Bond Document contains a material misrepresentation by the Company, and the Company fails to cure the effect of such misrepresentation within 30 days after such party gives the Company written notice of such misrepresentation or, if the effect of such misrepresentation cannot reasonably be cured within 30 days, failure by the Company to	

	commence the remedy within such period and to pursue the same diligently to completion.	39
C.	A decree or order for relief by a court of competent jurisdiction is entered against the Company in an involuntary case under any federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days, or the commencement by the Company of a voluntary case under such law, or the consent by the Company either to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Company or for any substantial part of its property, or the making by it of any assignment for the benefit of creditors, or the taking of action by the Company to authorize or effect any of the foregoing.	39
D.	Failure by the Company to perform any of its obligations under this Lease or the Indenture, other than the payment of Rent, PILOTs, Community Benefits Obligations or Additional Payments for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Company by the Issuer or the Purchaser, unless such failure cannot be remedied within 30 days and the Company has instituted corrective action within 30 days after such notice and diligently pursues such action until such failure is remedied.	40
VII.2.	Remedies on Default.	40
A.	By written notice to the Company declare all such amounts of Rent payable for the remainder of the Term as are required to provide for the Payment of the Bonds and all Additional Payments, Community Benefits Obligations and PILOT then owed to be immediately due and payable, whereupon the same will be immediately due and payable;	40
B.	Take possession of the Leased Property without terminating this Lease and lease or sublease the Leased Property for the account of the Company, crediting against the Rent required to be paid by the Company the amounts received by the Purchaser for the account of the Issuer from any lease or sublessee; for the avoidance of doubt, only the Purchaser may take possession of the Leased Property, and in no event may the Issuer take possession of the Leased Property;	40
C.	Terminate this Lease, hold the Company liable for all Rent due at the effective date of termination and due until the effective date of leasing the Leased Property to another, exclude the Company from possession of the Leased Property and lease or sublease the Leased Property to another; provided, however, that such termination and exclusion will not impair any remedy granted to the Issuer or the Purchaser under this Lease;	40
D.	Take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due and thereafter to become due or to enforce the performance and observance of any obligation of the Company under this Lease or the Indenture; or	41
E.	Exercise any remedies provided for in the Indenture.	41
F.	Purchaser and Company may setoff any immediately due Rent with amounts advanced by the Purchaser to the Company for the Project, as more particularly described in Section 5.3(C) herein.	41
VII.3.	Company to Give Notice of Default.	41
VII.4.	Default by Issuer - Limited Liability.	41
VII.5.	Issuer Remedial Action.	41
VII.6.	Agreement to Pay Issuer Attorneys' Expenses for Enforcement. If an Event of Default, or an event which with the giving of notice or the passage of time, or both, would constitute an Event of Default, occurs, and the Issuer incurs reasonable and documented expenses, including attorneys' fees, in connection with the enforcement of this Agreement, the Company will reimburse the Issuer for such reasonable and documented expenses so incurred, upon demand as evidenced by written notice from the Issuer.	42

VIII.PREPAYMENTS	42
VIII.1. Prepayments.....	42
IX.PURCHASE OF LEASED PROPERTY.....	43
IX.1. Purchase of Leased Property; Re-conveyance of Leased Property.....	43
IX.2. Escrow Account.....	43
In order to initiate the provisions of this Article IX, the Company and the Issuer agree to establish an Escrow Account pursuant to the terms set forth in Article V of the Indenture.....	43
X.MISCELLANEOUS	44
X.1. Incorporation of Indenture Provisions.....	44
X.2. Amendments.....	44
This Lease may be amended only by an instrument executed by the Issuer and the Company and consented to by the Purchaser.....	44
X.3. No Pecuniary Liability of Issuer.....	44
X.4. Notices.....	44
Any notice, demand, direction, request, consent, approval, report or other instrument authorized or required by this Agreement to be executed, given or filed will be in writing and will be deemed to have been sufficiently given or filed for all purposes of this Agreement when delivered by hand delivery or by nationally recognized commercial courier service, or on the third Business Day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as follows:..	44
Any party may, by notice to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent.....	45
X.5. Binding Effect.....	45
X.6. Survival.....	45
Except for the obligations of the Company set forth in Section 5.10 and 3.2 hereof (other than payments due and owing at the time of termination or expiration of this Lease), all agreements, covenants, representations and indemnities and all other statements of the Issuer and the Company and their respective officers set forth in or made pursuant to this Lease will survive the termination or expiration of this Lease.....	45
X.7. Severability.....	45
X.8. Beneficiaries.....	46
Other than the Purchaser, nothing in this Lease expressed or implied is intended or is to be construed to confer upon any Person other than the parties hereto (and, (a) in the case of Section 5.7 of this Lease, the Indemnified Persons and (b) in the case of Section 5.10(B) hereof, the School Districts), any right, remedy or claim, legal or equitable.....	46
X.9. Recording.....	46
X.10. No Waiver.....	46
X.11. Further Assurances.....	46
Consistent with the terms and conditions hereof, each party will execute and deliver such agreements, instruments, certificates, and other documents and take such other action as any other party hereto may reasonably require in order to carry out this Lease and the transactions contemplated hereby, including, but not limited to, any and all actions and agreements necessary to secure the tax exemptions described in N.M. Const., Article VIII, Section 3; NMSA 1978, Section 7-36-3 (2024) (including any successor statutes thereto); and Section 4.5 herein in the event of a future change in law.....	46
X.12. Applicable Law.....	47
X.13. Non-Merger.....	47

X.14. Relationship. The relationship of Issuer and Company under this Lease is that of landlord and tenant. Nothing in this Lease shall be construed as creating a partnership or joint venture between Issuer and Company.	47
X.15. Execution in Counterparts.	47
1) CONSENT TO ASSIGNMENT, ETC.	3
a) Consent to Assignment. The Consenting Party (i) acknowledges that the Lender is entering into the Financing Agreement and the Lender is making the Loans in reliance upon the execution and delivery by the Consenting Party of this Consent, (ii) consents in all respects to the pledge and assignment to Lender of all of the Borrower’s right, title and interest in, to and under the Assigned Agreement pursuant to the Security Agreement and the other related financing documents and (iii) acknowledges the right, but not the obligation, of Lender or Lender’s designee, in the exercise of Lender’s rights and remedies under the Security Agreement, to make all demands, give all notices, take all actions and exercise all rights of the Borrower in accordance with the Assigned Agreement, and agrees that in such event the Consenting Party shall continue to perform its obligations under the Assigned Agreement.	3
b) Substitute Owner. The Consenting Party agrees that, in the event of the foreclosure upon the rights of the Borrower in the Assigned Agreement (or acceptance of a deed in lieu of foreclosure), the Assigned Agreement shall remain in full force and effect, and the purchaser at foreclosure (the “Substitute Owner”) shall succeed to all of the rights and obligations of the Borrower under the Assigned Agreement without consent of any person. In such event and upon the curing of any Assigned Agreement Defaults (as defined herein) of the Borrower that are curable by the Substitute Owner, the Consenting Party will continue to perform its obligations under the Assigned Agreement in favor of the Substitute Owner.	3
c) Right to Cure. (i) The Lender or Lender’s designee shall have the right, but not the obligation, at any time to perform any act necessary to cure any default under the Assigned Agreement (“Assigned Agreement Default”) and to prevent the termination of the Assigned Agreement. The Consenting Party will not terminate or suspend its performance under the Assigned Agreement until it first gives written notice of such Assigned Agreement Default to Lender and allows Lender or Lender’s designee the right to cure such Assigned Agreement Default within the applicable cure period under the Assigned Agreement. In addition, if Lender or Lender’s designee gives the Consenting Party written notice prior to the expiration of the applicable cure period of such Lender’s or Lender’s designee’s intention to cure such Assigned Agreement Default (which notice shall include a reasonable description of the time during which it anticipates to cure such default) and is diligently proceeding to cure such Assigned Agreement Default, notwithstanding the applicable cure period under the Assigned Agreement, the Lender or Lender’s designee shall have a period of ninety (90) days (or if such Assigned Agreement Default is for failure by the Borrower to pay an amount to the Consenting Party which is due and payable under the Assigned Agreement, sixty (60) days) from the Lender’s or Lender’s designee’s receipt of the notice of such Assigned Agreement Default from the	

Consenting Party, to cure such Assigned Agreement Default. If the Assigned Agreement Default is not cured within the periods specified above by the Lender or the Lender's designee, the Consenting Party may terminate or suspend its performance under the Assigned Agreement.....4

i) If any Assigned Agreement Default by the Borrower cannot be cured without obtaining possession of all or part of the Leased Property, then any such Assigned Agreement Default shall be deemed remedied if Lender or Lender's designee (a) in the time periods provided in Section 7.1 of the Assigned Agreement begins appropriate judicial or non-judicial proceedings to obtain the same; (b) diligently prosecutes any such proceedings to completion; and (c) after gaining possession of all or part of the Leased Property, diligently proceeds to cure and perform all other obligations as and when the same are due in accordance with the terms of the Assigned Agreement. If Lender or Lender's designee is prohibited by any Court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the period specified above for commencing proceedings shall be extended for the period of such prohibition.4

ii) If the Lender, Lender's designee (or a receiver requested by Lender) succeeds to the interest of the Borrower in the Leased Property, the Lender, Lender's designee or Lenders shall pay or cause to be paid the Rent, PILOT, Additional Payments (as such terms are defined in the Assigned Agreement) and all other monetary charges payable by the Borrower under the Assigned Agreement from the date on which the Lender, Lender's designee or Lenders (or a receiver requested by Lender) succeeds to such interest and those which accrue thereafter during the term of the Assigned Agreement. No cancellation, suspension or termination of the Assigned Agreement by the Consenting Party shall be binding upon Lender without the notice and extended cure period specified in this Section 1(c). Any dispute that may arise under the Assigned Agreement notwithstanding, the Consenting Party shall continue performance under the Assigned Agreement and resolve any dispute without discontinuing such performance until the lapse of the notice and extended cure period specified in this Section 1(c).....5

b) No Termination, Assignment or Material Amendments. No termination, cancellation, surrender, amendment, modification or supplement of the Assigned Agreement or the Bond Indenture by the Borrower, nor the waiver by the Borrower of any of the provisions of the Assigned Agreement or the Bond Indenture nor the giving by the Borrower of any consent, will be effective as to the Lender or the Lender's designee unless consented to in writing by the Lender. The Consenting Party shall not, without the prior written consent of the Lender, assign or otherwise transfer any of its right, title and interest under the Assigned Agreement or the Bond Indenture, or consent to any such assignment or transfer by the Borrower. The Consenting Party shall not, without the prior written consent of the Lender, enter into any material amendment, supplement or modification of the Assigned Agreement or the Bond Indenture.5

- c) No Liability. The Consenting Party acknowledges and agrees that none of Lender, or the Lender's designee shall have any obligation or liability under the Assigned Agreement prior to the time the Lender, Lender's designee or the Lender becomes a Substitute Owner. Lender or the Lender's designee shall be liable to perform obligations under the Assigned Agreement only for and during any period in which Lender or the Lender's designee is a Substitute Owner pursuant to Section 1(b); provided, however, that such liability shall not include any liability for claims of the Consenting Party against the Borrower arising from the Borrower's failure to perform during the period prior to such Lender, Lender's designee or the Lender becoming a Substitute Owner. Notwithstanding any other provisions in the Assigned Agreement to the contrary, except as otherwise set forth in the immediately preceding sentence, none of Lender or the Lender's designee shall be liable for the performance or observance of any of the obligations or duties of the Borrower under the Assigned Agreement and the collateral assignment of the Assigned Agreement by the Borrower to Lender shall not give rise to any duties or obligations whatsoever on the part of Lender, Lender's designee or the Lenders owing to the Consenting Party. In the event that Lender or the Lender's designee is liable under the Assigned Agreement, liability in respect of any and all obligations of any such party under the Assigned Agreement shall be limited solely to such party's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).6
- d) Delivery of Notices. The Consenting Party, upon providing the Borrower any notice of (i) default under the Assigned Agreement or the Bond Indenture or (ii) a matter on which the Consenting Party may predicate or claim a default under the Assigned Agreement or the Bond Indenture, will at the same time provide a copy of such notice to the Lender. The Consenting Party will have no liability for the failure to give any such notice, except that no such notice by the Consenting Party to Borrower will be deemed to have been duly given to the Lender, Lender's designee or Lenders unless and until a copy thereof has been so provided to the Lender or Lender's designee or Lenders.6
- 2) CONFIRMATION OF SUBORDINATION.6
- 3) REPRESENTATIONS AND WARRANTIES OF THE CONSENTING PARTY8
- The Consenting Party makes the following representations and warranties as of the date hereof, which shall survive the execution and delivery of this Consent and the Assigned Agreement and the consummation of the transactions contemplated hereby and thereby.8
- a) Organization; Power and Authority. The Consenting Party is a political subdivision of the State of New Mexico, and has all requisite power and authority to enter into and to perform its obligations under this Consent and the Assigned Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.8
- b) Authorization. The execution, delivery and performance by the Consenting Party of this Consent, the Bond Indenture and the Assigned Agreement have been duly authorized and do not require any approval or consent of (i) any holder (or any trustee for any holder) of

any indebtedness or other obligation of the Consenting Party or (ii) any other person or entity, except approvals or consents which have previously been obtained.....	8
c) No Previous Assignments; Other Agreements. The Consenting Party has not consented to any previous assignment or subordination of all or any part of its right, title or interest in, to or under the Assigned Agreement, the Bond Indenture or the Bond Mortgaged Property.....	8
d) Status of Documents. Each of the Assigned Agreement and the Bond Indenture is in full force and effect and has not been amended and there are no defaults, events of default or, to the knowledge of the Consenting Party, events which with the passage of time or the giving of notice would constitute a default or event of default under the Assigned Agreement and the Bond Indenture.....	8
e) Representations and Warranties. All representations, warranties and other statements made by the Consenting Party in the Assigned Agreement and the Bond Indenture were true and correct as of the date when made and are true and correct as of the date of this Consent.	8
2) MISCELLANEOUS	8
a) Applicable Law; Submission to Jurisdiction. (i) THIS CONSENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW MEXICO, UNITED STATES OF AMERICA, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.	8
b) Notices. All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the party or parties to whom such notice is addressed, shall be sent by first class mail, by personal delivery, by a nationally recognized courier service or by facsimile (subject to electronic confirmation), and shall be directed as follows:	8
c) Amendment, Waiver. Neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the Consenting Party and Lender.....	10
d) No Waiver; Remedies Cumulative. The waiver of any right, breach or default under this Consent by any party must be made specifically and in writing. No failure or delay on the part of Lender or Consenting Party in exercising any right, power or privilege hereunder and no course of dealing between the Consenting Party and Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other exercise, or the further exercise, of any other right, power or privilege hereunder. No notice to or demand upon any party will entitle such party to any further, subsequent or other notice or demand in similar or any other circumstances. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies that Lender or Consenting Party would otherwise have.	10

- e) Counterparts. This Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.10
- f) Headings Descriptive. The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.10
- g) Severability. In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.10
- h) Successors and Assigns. This Consent shall be binding upon the parties hereto and their permitted successors and assigns and shall inure to the benefit of the parties, their designees and their respective permitted successors and assigns; provided, however, that no party or its respective successor or assign shall assign any of its interest in this Consent except in connection with an assignment of its interests in the Assigned Agreement and the Bond Indenture and then only to the same person(s) or entity (its) to which its interest in the Assigned Agreement or the Bond Indenture is so assigned.10
- i) Survival. All agreements, statements, representations and warranties made by the Consenting Party herein shall be considered to have been relied upon by Lender and the Lenders and shall survive the execution and delivery of this Consent.10
- j) Further Assurances. The parties hereto hereby agree to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.10
- k) Termination.11
- i) Each party's obligations hereunder are absolute and unconditional, and no party has the right to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until all Loans and all other obligations under the Financing Agreement have been indefeasibly satisfied in full, notice of which will be provided by Lender when such obligations have been satisfied (the "Termination Notice").....11
- ii) In the event that the Loans are refinanced or replaced by other credit facilities, this Consent and Agreement will continue in effect for the benefit of Consenting Party, Borrower, the Counterparties and the providers of such new credit facilities (the "New Lender"); provided, that (A) within five (5) days following delivery by Lender to Consenting Party of a Termination Notice, the New Lender or an agent, trustee or other representative of the New Lender, will notify Consenting Party that it assumes the rights and prospective obligations of Lender under this Consent, and will supply substitute notice address information for Section 4(c) and (B) thereafter, (1) the term "Loans" under this Consent will be deemed to refer to the new credit facilities, (2) the term "Lender" or

“Lenders” will be deemed to refer to the New Lender or any agent or trustee of the New Lender, (3) the term “Financing Agreement” will be deemed to refer to the financing agreement, indenture or other instrument providing for the new credit facilities and (4) the term “Security Agreement” will be deemed to refer to the security agreement under which the Assigned Agreement is assigned as collateral to secure performance of the obligations of Borrower under the new credit facilities.11

DOÑA ANA COUNTY, NEW MEXICO, a New Mexico county and political subdivision, as lessor (together with its successors and assigns, the “Issuer”), and YUCCA GROWTH INFRASTRUCTURE, LLC, a Delaware limited liability company, as lessee (together with its successors, affiliates and assigns, the “Company”), agree:

I. RECITALS

I.1. Recitals.

A. The Company has presented to the Board of County Commissioners, the governing body of the Issuer (the “Board”), a proposal whereby the Issuer will construct, acquire, equip and install improvements for a microgrid, power generation, battery storage, and related infrastructure and facilities, located within the County (the “Project”) and whereby the Issuer will issue its Taxable Industrial Revenue Bonds (Project Jupiter) Series 2025 in the maximum aggregate principal amount of \$15,000,000,000 (the “Bonds”) to accomplish the construction, acquisition and installation of the Project;

B. The Issuer is authorized under Sections 4-59-1 to 4-59-16 New Mexico Statutes Annotated, 1978 Compilation (the “Act”), to acquire certain projects and issue its industrial revenue bonds in payment therefor and has determined by Ordinance No. 367-2025 (the “Bond Ordinance”) that it is desirable to construct, acquire and improve the Project and has pursuant to the Bond Ordinance authorized the issuance of the Bonds;

C. The Bonds are to be issued under an Indenture dated as of October 1, 2025 (together with all amendments and supplements, the “Indenture”) among the Issuer, Yucca Growth Infrastructure Purchaser, a Delaware limited liability company (together with its successors, affiliates and assignees, and permitted transferees of the Bonds, the “Purchaser”), the Company and BOKF, N.A., as Depositary (the “Depositary”);

D. The proceeds of the Bonds will be used to finance the construction, acquisition, equipping and installation of the Improvements (as defined in Section 2.1);

E. The Leased Property will be leased to the Company under this Lease Agreement (together with all amendments and supplements, this “Lease” or this “Agreement”), which is undertaken by the Issuer and the Company, in part, to provide the property tax, gross receipts tax and compensating tax exemptions described in N.M. Const., Article VIII, Section 3; NMSA 1978, Section 7-36-3 (2024) (including any successor statutes thereto); and Section 4.5 herein;

F. The Bonds are to be purchased under a Bond Purchase Agreement dated as of October 28, 2025 (together with all amendments and supplements the “Bond Purchase Agreement”) among the Issuer, the Purchaser and the Company;

G. The Issuer deems it desirable, in the best interests of its residents and in accordance with the purposes of the Act, to issue its Bonds and to finance the Leased

Property for the purposes described above, pursuant to the Indenture and the Bond Ordinance;

H. The Bonds will be special limited obligations of the Issuer payable as provided therein and as provided in the Indenture, and the Bonds will not constitute a debt or indebtedness or pledge of the credit of the Issuer, and the Purchaser or owner of the Bonds will have no right to have taxes levied by the Issuer or to require the Issuer to use any revenues for the payment of the Bonds, except for Revenues (as defined in the Indenture); and

I. The Company and, as applicable, each of the Subseries 2025B Companies (defined below) and the Subseries 2025C Company (defined below) have separately entered into the Sublease (defined below), pursuant to which the Company will convey certain rights under this Lease to each of the Subseries 2025B Companies and the Subseries 2025C Company.

J. The Company and the Issuer each have full right and lawful authority to enter into this Lease and to perform and observe the provisions hereof on their respective parts to be performed and observed.

In consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Company agree as follows (provided that any obligation of the Issuer created by or arising out of this Lease will never constitute an indebtedness of the Issuer or give rise to any pecuniary liability of the Issuer or charge against its general credit or taxing powers, but will be payable solely out of Revenues).

II. DEFINITIONS AND RULES OF CONSTRUCTION

Definitions.

All words and terms defined in the Indenture have the same meanings when used in this Lease and the following terms shall have, except where the context indicates otherwise, the respective meanings set forth below.

“Additional Payments” has the meaning assigned in Section 5.3(B).

“Additional Tract Transfer” has the meaning assigned in Section 4.1(B).

“Applicable Environmental Law” means any applicable law, statute, regulation, order or rule pertaining to health or safety (regarding exposure to any hazardous substance), pollution or protection of the environment, including, without limitation, CERCLA and RCRA, as each is amended and in effect from time to time.

“Basic Rent” has the meaning assigned in Section 5.3(A).

“Board” means the Board of County Commissioners of Doña Ana County, New Mexico.

“Bond Documents” means, collectively, this Lease, the Indenture, and the Bond Purchase Agreement, each one individually being a “Bond Document.”

“Business Day” means any day that is not a Saturday or Sunday or a day on which banking institutions in the State or in the city in which payment of the Bonds is to be made are authorized or required to close.

“Claw-Back” means a Project Claw-Back or a Closure Claw-Back.

“Company Software” means any software code, computer system, network, database, or other information system owned, controlled, or operated by or on behalf of the Company.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, *et seq.*, as amended.

“Community Benefits Agreement” means that certain Community Benefits Agreement dated October 28, 2025, among the Issuer, the Company, and the Series 2025B Companies.

“Community Benefits Obligations” means obligations of the Company under the Community Benefits Agreement.

“Company Financing” means: means a transaction or series of transactions involving credit agreements, loan documents, letters of credit, or other instruments evidencing financial obligations to which the Company, its members or any subsidiary or affiliate of the Company is a party entered into or occurring at any time prior to the Closing Date (as defined in the Bond Purchase Agreement) or during the Term and after the date of initial delivery of the Bonds, for the purpose of obtaining financing of the Leased Property by the Company, its members or any subsidiary or affiliate of the Company, together with any Company Financing Lien, and any replacements, refinancings or guaranties thereof.

“Company Financing Lien” means any pledge, encumbrance or other lien, including without limitation any deed of trust, mortgage, deed to secure debt, security agreement or similar voluntary agreement creating a lien upon or security interest in, or conveying title to, all or any portion of the Leased Property or any part thereof or any interest therein (including without limitation the Company’s leasehold interest) entered into in connection with a Company Financing, including, for the avoidance of doubt, the Mortgage.

“Completion Date” has the meaning assigned in Section 4.4.

“Confidential Information” means all nonpublic information of or relating to Company, its affiliates, the Leased Property, the Project, or the transactions contemplated by the Bond Documents, marked or indicated as confidential, in any form, that is disclosed or made available by or on behalf of Company to Issuer, Purchaser, Depositary, or their respective Representatives, or is otherwise obtained in connection with the Bond Documents. Confidential Information includes, without limitation: business plans; financial, accounting information; pricing; invoices, requisitions and certificates; plans, specifications, designs, schematics, equipment lists and inventories; network, power and utility diagrams; cybersecurity posture and controls; site access logs, video/images and observations; vendor lists and purchasing data; human resources and employment reports; legal advice and communications; trade secrets; and any securitysensitive infrastructure information. Confidential information does not include information that is public, independently developed, rightfully obtained from a non-confidential source, or information that is required by law to be made available to the general public.

“Covered Data” means all information transmitted through, cached and/or stored on, the Leased Property, in any form, format, or media.

“Effective Date” means October 28, 2025.

“Eminent Domain” means the taking of title to, or the temporary use of, all or any part of the Leased Property pursuant to eminent domain or condemnation proceedings, or by any settlement or compromise of such proceedings, or any voluntary conveyance of all or any part of the Leased Property during the pendency of, or as a result of a threat of, such proceedings.

“Equipment” means all equipment, fixtures and furnishings and all personal property of any kind, which is to be acquired and used on or at the Project Site, which is suitable for and used at the Project, and which is subject to depreciation for federal income tax purposes, and that is purchased with proceeds of the Bonds, or the purchase of which is reimbursed with proceeds of the Bonds, together with fixtures, furnishings and other depreciable personal property that are in replacement thereof due to damage or obsolescence.

“Event of Default” has the meaning assigned in Section 7.1.

“Force Majeure” means acts of God; strike, lockout or other industrial disturbance; acts of public enemy; war; terrorist act; sabotage; embargo; any law, order, regulation or other action of any governing authority; any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any governmental agency having jurisdiction over any portion of the Project, over the construction anticipated to occur thereon or over any uses thereof, or by delays in inspections or in issuing approvals by private parties or permits by governmental agencies; civil disturbance; insurrection; blockage; riot; pandemic; epidemic; landslide; lightning; earthquake; fire; hurricane; tornado; storm; flood; washout; drought; explosion; discovery of hazardous substances or toxic materials brought on the Project Site by the Issuer or third parties; partial or entire failure of power, telecommunication, data connectivity or other services to be delivered to the Project by any third party including any local

utility provider; delays caused by any dispute resolution process; or any other cause or event not reasonably within the control of the Company.

“FullTime Employee” or “FTE” means an employee working on aggregate at least 32 hours per week at the Project Site who is offered by the Company, as applicable, all the benefits required by State and federal law for employees of similar characteristics.

“Improvements” means all buildings, structures and other improvements either presently located on the Project Site or the Project Site Easements or to be constructed and installed on the Project Site or the Project Site Easements in connection with the Project and acquired consistent with the provisions of Section 4.1, together with necessary site work, including the Equipment.

“Indemnatee” means, collectively, the Indemnified Persons as defined in Section 5.7 hereof and the Indemnified Parties as defined in Section 9.06 of the Indenture.

“Inducement Resolution” means Resolution No. 2025-96 adopted by the Board on August 26, 2025, in connection with the issuance of the Bonds.

“Issuance Costs” means items of expense payable or reimbursable directly or indirectly by the Issuer or the Company and related to the authorization, sale and issuance of the Bonds and authorization and execution of this Lease, which items of expense shall include, but are not be limited to, application fees and expenses, publication costs, printing costs, costs of reproducing documents, filing and recording fees, bond counsel and Company counsel fees, initial fees of the Depositary, and other costs, charges and fees in connection with the foregoing.

“Leased Property” means the Project Site and the Improvements.

“Mortgage” means each fee and/or leasehold mortgage granted by the Company for the benefit of a provider of Company Financing establishing title to the real property identified in Exhibit A attached hereto and the Improvements (collectively the “Mortgaged Property”), to which the Issuer’s interest in the Mortgaged Property shall be subject.

“Mortgaged Property” has the meaning assigned in the definition of “Mortgage.”

“Permitted Liens” means, as of the date of delivery of this Lease and as of any particular time, (i) liens for taxes, if any, to the extent permitted in Section 4.9; (ii) this Lease, any assignment or lease permitted by this Lease; (iii) mechanics’, materialmens’, carriers’ and other similar liens; (iv) any Company Financing Lien; and (v) such minor defects, irregularities, encumbrances, or other liens on the Leased Property as normally exist with respect to similar properties and as do not, individually or in the aggregate, materially impair the Leased Property for the purpose for which it is used by the Company or materially detract from the value of the Leased Property.

“Person” means any natural person, firm, partnership, association, corporation, limited liability company, trust, or public body.

“PILOT” has the meaning assigned in Section 5.10.

“Proceeds,” when used with respect to any insurance proceeds or any award resulting from, or other amount received in connection with, Eminent Domain, means the gross proceeds from the insurance or such award or other amount.

“Project” has the meaning assigned in Section 1.1(A).

“Project Site” means the real property identified in Exhibit A-1 attached hereto and incorporated by reference.

“Project Site Easements” means the easements identified in Exhibit A-2 attached hereto and incorporated by reference.

“RCRA” means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, *et seq.*, as amended.

“Rent” means Basic Rent and any Additional Payments.

“School Districts” means collectively (and each individually a “School District”) the Las Cruces Public School District, the Gadsden Independent School District and the Hatch Valley Public School District, being all of the school districts located within Doña Ana County, New Mexico.

“Security Incident” means any incident that involves or reasonably may involve the unauthorized access, use, disclosure, or loss of any Covered Data or any other suspected breach or compromise of the security, confidentiality or integrity of any Covered Data.

“Subseries 2025B Companies” means, collectively, Red Chiles A, LLC; Red Chiles B, LLC; Red Chiles C, LLC; and Red Chiles D, LLC.

“Subseries 2025C Bonds” means the Issuer’s Taxable Industrial Revenue Bonds (Project Jupiter) Series 2025C issued in four subseries in the combined, aggregate principal amount of \$125,000,000,000.

“Subseries 2025B Lease” means a lease agreement dated as of October 1, 2025, between the Issuer and one of the Subseries 2025B Company.

“Subseries 2025C Company” means Green Chile Ventures LLC.

“Sublease” means the sublease agreements between or among the Company and one or more of the Series 2025B Companies and the Series 2025C Company dated as of October

1, 2025 by which the Company has assigned and subleased certain interests in this Lease to the Series 2025B Companies and the Series 2025C Company.

“Stored Data” means any and all data, metadata, data elements, identifiers, data models, data structures, databases, information, files, documents, materials, content, libraries, software, firmware, code, scripts, algorithms, and any items similar to any of the foregoing, in each of the foregoing cases, collected, stored, cached, located or resident on or within, or transmitted to or from, in any way and for any period of time while the Bonds remain outstanding, the Leased Property.

“Term” means the period from the date of the execution and delivery of this Lease by the Issuer and the Company to the earlier of the date of Payment of the Bonds, the date of termination of this Lease pursuant to Section 7.2(C), or October 1, 2055.

“TRD” means the New Mexico Taxation and Revenue Department.

Rules of Construction.

A. The captions and headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

B. All references in this Lease to particular articles, sections or exhibits are references to articles or sections of or exhibits to this Lease unless some other reference is established.

C. Any inconsistency between the provisions of this Lease and the provisions of the Indenture will be resolved in favor of the provisions of the Indenture.

III. REPRESENTATIONS

Representations by the Issuer

The Issuer represents that, as of the date of delivery of this Lease:

A. The Issuer is a county and political subdivision organized and existing under and pursuant to the laws of the State of New Mexico (“State”) and is authorized by the Act to acquire, own, lease or sell projects for the purpose of promoting industry and trade by inducing manufacturing, industrial and commercial enterprises to locate or expand in the State, and promoting a sound and proper balance in the State between agriculture, commerce and industry. The Issuer has the power under the Act to enter into the transactions contemplated by this Lease, the Indenture and the Bond Purchase Agreement and to carry out its obligations hereunder and thereunder. By proper action, the Issuer has duly authorized the execution and delivery of this Lease, the Indenture and the Bond Purchase Agreement.

B. The Issuer has duly authorized by the Bond Ordinance adopted at a meeting duly called and held, by the affirmative vote of not less than a majority of all of the members of its Board of County Commissioners (the “Governing Body”), the execution, delivery and performance of the Bond Documents, the Bonds and the issuance of the Bonds, all for the purpose of financing the Project including without limitation the acquisition of the Leased Property and paying certain costs related to the issuance of the Bonds.

C. The Issuer will lease the Leased Property to the Company and will sell the Leased Property to the Company upon the Company’s exercise of its option to purchase the Leased Property, all for the purpose of promoting industry and trade by inducing the Company to locate the Project in the State and to promote a sound and proper balance in the State between agriculture, commerce and industry.

D. To finance the Costs of the Project (as defined in the Indenture), the Issuer will issue the Bonds. The Bonds shall mature, bear interest and have such other terms and conditions as are set forth in the Indenture.

E. The Bonds are to be issued under and secured by the Indenture, pursuant to which the Issuer’s interests in this Lease (with certain exceptions) and the revenues and receipts derived by the Issuer from the leasing or sale of the Leased Property (with certain exceptions) will be pledged and assigned to the Purchaser as security for payment of the principal of, premium, if any, and interest on the Bonds.

F. The Issuer is in good financial health, is not insolvent, is not currently subject to any voluntary or involuntary bankruptcy proceedings, and under current New Mexico law, does not have the legal capacity or ability to file for bankruptcy protection under the United States Bankruptcy Code or applicable state or federal law. Further, the Issuer is solvent, meaning it is able to pay its debts as they become due in the ordinary course of business and has not made any assignment for the benefit of creditors or admitted in writing its inability to pay its debts as they mature.

G. The Issuer further covenants and agrees that, during the Term of this Lease, the Issuer will use its best efforts to maintain its financial health and solvency throughout the Term of this Lease and will use reasonable, good faith efforts to notify the Company prior to any insolvency hearing of Issuer.

H. The execution, delivery and performance of the Issuer of the Bond Documents will not conflict with or create a material breach of or material default under the Act or any other law, rule, regulation or ordinance applicable to the Issuer or any agreement or instrument to which the Issuer is a party or by which it is bound, and there is no action, suit, proceeding, inquiry or investigation by or before any court, public board or body, pending against the Issuer, which seeks to or does restrain or enjoin the issuance and delivery of the Bonds or the execution and delivery of any of the Bond

Documents or in any manner questions the validity or enforceability of the Bonds or any of the Bond Documents.

I. To the knowledge of the Issuer, no member, officer or other official of the Issuer has any pecuniary interest whatsoever in the Company or the transactions contemplated by this Agreement.

III.2. Company Representations.

The Company represents that, as of the date of delivery of this Lease:

A. The Company is a limited liability company duly organized and validly existing under the laws of Delaware qualified to conduct business and in good standing under the laws of the State, and has duly authorized the execution, delivery and performance of this Lease, the Sublease, the Indenture and the Bond Purchase Agreement.

B. The Company has full legal right, power and authority to carry out and consummate the transactions contemplated by this Agreement, the Indenture and the Bond Purchase Agreement and to incur and perform the obligations provided for therein, all of which have been duly authorized by all proper and necessary action on the part of the Company.

C. The execution, delivery and performance by the Company of this Lease, the Indenture, and the Bond Purchase Agreement and the application by the Company of the proceeds of the issuance and sale of the Bonds as provided in the Bond Documents do not and will not conflict with, contravene, violate or constitute a breach of or default under its organizational documents or operating agreement or, to the Company's knowledge, any law, rule, regulation, ordinance, order, consent decree, or any material agreement or instrument to which the Company is a party or by which it or its properties or the Leased Property is bound or any law, rule, regulation, ordinance, order, consent, or decree, applicable to the Company, its properties or the Leased Property. The Company has not received any written notice that the Project is not in material compliance with all laws and regulations to which it is subject. The Company has not received any written notice of any currently existing violation of any zoning, land use, environmental or other similar law or regulation applicable to the Project Site.

D. This Agreement, the Sublease, the Indenture and the Bond Purchase Agreement constitute legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general principles of equity.

E. To the knowledge of the Company, all necessary authorizations, approvals, consents and other orders of any governmental authority or agency for the execution and delivery by the Company of this Lease, the Sublease, the Indenture, and the Bond Purchase Agreement have been obtained or will be obtained prior to issuance of the Bonds.

F. No lawsuit was filed and pending before the Third Judicial District Court of New Mexico or the United States District Court for the District of New Mexico against the Company between August 26, 2025 through October 24, 2025, which (i) seeks to or does restrain or enjoin the issuance or delivery of the Bonds or the execution and delivery of this Agreement, the Sublease, the Indenture, or the Bond Purchase Agreement, (ii) in any manner questions the validity or enforceability of the Bonds, this Lease, the Indenture, or the Bond Purchase Agreement, or (iii) questions the authority of the Company to lease the Leased Property, operate the Leased Property or sublease the Leased Property to the Series 2025B Companies or the Series 2025C Company pursuant to the Sublease.

G. The agreement by the Issuer to issue the Bonds and to lease the Leased Property to the Company has induced the Company to undertake the Project and to locate its business in Doña Ana County, New Mexico.

H. The Company intends to operate the Leased Property so as to qualify as a “project” as defined in the Act to the later of the payment in full of the principal of, premium, if any, and interest on the Bonds and the expiration or early termination of the Term of this Lease as provided herein as a microgrid, power generation, battery storage, and related infrastructure and facilities so as to qualify the Improvements, as applicable, for the deduction from gross receipts tax or governmental gross receipts tax and the exemption from compensating tax pursuant to Section 7-9-54 NMSA 1978, as amended. The Company will not use or operate the Project, or permit the Project to be used or operated in any way which would adversely affect the qualification of the Project as a “project” under the Act.

I. As agent for the Issuer, the Company proposes to construct, acquire and install the Improvements which the Company intends to qualify for the tax-exemptions pursuant to Section 7-9-54 NMSA 1978, as amended. The Company shall have the sole responsibility for the construction, acquisition and installation of the Improvements, and may perform the same, by itself or through affiliates, agents, contractors, subcontractors or others selected by it, in whatever lawful manner it deems necessary or advisable. With respect to such construction, acquisition and installation, the Company shall procure from the appropriate State, county, municipal and other authorities and corporations, utility connection and discharge arrangements for the adequate supply of water, gas, electricity, sewage, and other services for the operation of the Project. The acquisition, construction and installation of the Leased Property by the Company and the operation thereof will comply in all material respects with applicable zoning, planning, building, environmental and other regulations of the governmental authorities having jurisdiction over the Project,

and all permits, licenses, consents and permissions necessary for the Project have been or will be obtained in due course.

J. None of the proceeds of the Bonds will be used to provide working capital.

K. The Project is an electric generation facility and battery storage facility which and will use reasonable, good faith efforts to notify the Company prior to any insolvency hearing understands does not require both location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the New Mexico Public Utility Act, NMSA 1978, Sections 62-3-1 to -5.

L. The Improvements will be located on the Project Site which is within the boundaries of the Issuer but outside the boundaries of any municipality.

M. This Lease will serve as a financing agreement from which revenues will be derived for the purpose of providing payment for the account of the Issuer of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on the Bonds, and providing that the Company shall be obligated to pay for the maintenance of and insurance or meet self-insurance requirements on the Project as required by the Act.

N. The Company has the economic ability to meet all of the financial obligations imposed upon the Company under this Lease.

O. To the knowledge of the Company, no officer or other official of the Issuer has any interest of any kind in the Company which would result, as a result of the issuance of the Bonds, in a substantial financial benefit to such persons other than as a member of the general public of the State.

P. The Company has heretofore supplied the Issuer estimates of the Costs of the Project and the Completion Date. The Company hereby warrants that such estimates for the Project were made in good faith and are fair, reasonable and realistic but are subject to revision as the Leased Property is constructed, acquired and installed due to foreseen and unforeseen circumstances; provided, however, Costs of the Project in excess of the proceeds of the Bonds shall be funded by the Company from other sources.

Q. The Company shall cause to be paid all costs of the Leased Property in excess of the moneys available therefor in the Acquisition Account. The Company acknowledges that the Issuer has made no warranty or representation, express or implied that the amount in the Acquisition Account will be sufficient to pay the Costs of the Project or that the Leased Property will be suitable for the Company's needs.

R. To the knowledge of the Company, no representation made by the Company in this Agreement and no statement made by the Company in any written

information, material or report furnished to the Issuer or the Purchaser in connection with the transactions contemplated by this Agreement contains or contained, any untrue statement of a material fact, or omits or omitted, to state a material fact necessary to make the representation or statement, in light of the circumstances under which it was made, not misleading.

S. To the knowledge of the Company, no representation made by the Company in this Agreement and no statement made by the Company in any written information, material or report furnished to the Issuer or the Purchaser in connection with the transactions contemplated by this Agreement contained, when made, any untrue statement of a material fact, or omitted, when made, to state a material fact necessary to make the representation or statement, in light of the circumstances under which it was made, not misleading.

T. The Company offers and will offer at all times during the Term of this Lease its employees and their dependents health insurance coverage that is in compliance with the New Mexico Insurance Code and contributes not less than fifty percent (50%) of the premium for health insurance for employees, who choose to enroll.

The representations of the Company in this Section 3.2 and in any certificate or other instrument delivered by the Company pursuant to any of the Bond Documents or in connection with the transactions contemplated by the Bond Documents are accurate as of the Effective Date, and to the extent that a change in circumstances occurs that would cause any of these representations to become untrue, the Company will notify the Issuer within ten (10) days upon the Company becoming aware that such representation is no longer true.

IV.

THE PROJECT

IV.1. Construction, Acquisition, Installation and Completion.

A. The Company will, on behalf of and as agent of the Issuer, acquire, construct and improve the Leased Property and will undertake to complete the Project. On or prior to the date of issuance and delivery of the Bonds and execution of this Lease, the Company has conveyed or caused to be conveyed to the Issuer, by deed, bill of sale or such other appropriate transfer or conveyance documents as will vest title in the Issuer ("Conveyancing Documents"), to all of the Company's interest in the Project Site and in any and all Improvements as may exist at that time and thereafter to be acquired and, to the extent necessary, the Company shall from time to time transfer legal title to each additional relevant portion of the Improvements acquired by the Company as agent for the Issuer so that legal title will vest in the Issuer pursuant to the Conveyancing Documents that the Company may subsequently deliver to the Issuer. All Improvements shall be paid out of proceeds of the Bonds to appropriate vendors or on a reimbursement basis to the Company pursuant to Section 6.02 of the Indenture. To the extent reasonably possible, the Company will cause the Leased Property to be completed with proceeds of the issuance of the Bonds and the Company will use its reasonable efforts to cause

the Purchaser to carry out its obligations to make advances under the Bonds. To the extent necessary, after proceeds of the Bonds have been exhausted, the Company will cause the Project to be completed with its own funds or other resources. After installation, and other than removals in connection with repairs or replacements, the Improvements will at all times during the Term be located in or upon the Project Site. The Company will obtain at the necessary time(s) all licenses and permits required for the occupancy and operation of the Leased Property. Notwithstanding the foregoing, the Company will not make any changes, supplements, amendments, additions, omissions, or substitutions or otherwise change or operate the Leased Property or permit the Leased Property to be operated so as to cause the Leased Property not to be a “project” within the meaning of the Act as in effect on the date of issuance of the Bonds, and the Company will not take or omit to take any action which results in the Bond proceeds being applied in a manner other than as provided in the Bond Documents.

B. After providing written notice to the Issuer via electronic means, the Company may convey or cause to be conveyed to the Issuer by appropriate transfer or conveyance documents as will vest title in the Issuer, to all of the Company’s interests in the Project Site Easements (the “Easement Transfer”); provided that the Company shall not, without amending the Agreement as required by Section 10.2 hereof, make any such change, supplement, amendment, addition, omission or substitution which would make the description of the Leased Property contained in Exhibit A-1 and Exhibit A-2 hereof materially inaccurate. At the sole cost of the Company, the Issuer, the Company, and the Purchaser will take such further actions as necessary to cause such change, including, without limitation: (i) executing, delivering, and recording Conveyancing Documents; (ii) amending the Bond Documents; and (iii) updating the Conveyance Documents held by the Depositary pursuant to Section 5.02 of the Indenture (collectively, the “Additional Steps”). To the extent that the Easement Transfer requires approval or consent by the Issuer, this Lease shall be evidence of said approval. After accomplishing the Additional Steps and once the Issuer has received an electronic copy of the documents conveying the Project Site Easements to the Issuer, the Project Site Easements will be deemed part of the Project Site and the Leased Property for purposes of this Lease, the Indenture, and all associated documents. Notwithstanding the foregoing, the Company will not make any changes, supplements, amendments, additions, omissions, or substitutions or otherwise change or operate the Leased Property or permit the Leased Property to be operated so as to cause the Leased Property not to be a “project” within the meaning of the Act as in effect on the date of issuance of the Bonds, and the Company will not take or omit to take any action which results in the Bond proceeds being applied in a manner other than as provided in the Bond Documents.

IV.2. Plans and Specifications; Changes.

The Company will maintain a set of plans and specifications for the Project during the period of construction, acquisition and equipping which will be available to the Issuer and the Purchaser for inspection and examination during the Company’s regular business hours. The Company may change, supplement, amend and add to such plans and specifications and is authorized to omit or make substitutions for components of the Leased Property without the

approval of the Issuer or the Purchaser; provided, however that the Company shall not (a) make any such change, supplement, amendment, addition, omission or substitution which would make the description of the Leased Property contained in Exhibit A materially inaccurate without amending the Agreement as required by Section 10.2 hereof; and (b) the Company will not make any changes, supplements, amendments, additions, omissions, or substitutions or otherwise change or operate the Leased property or permit the Leased Property to be operated so as to cause the Leased Property not to be a “project” within the meaning of the Act as in effect on the date of issuance of the Bonds, and the Company will not take or omit to take any action which results in the Bond proceeds being applied in a manner other than as provided in the Bond Documents. At the sole cost of the Company, the Issuer, the Company, and the Purchaser will take such further actions as necessary to affect such change including without limitation executing, delivering, and recording a bill of sale and any amendments to the Bond Documents.

IV.3. No Warranty.

THE COMPONENTS OF THE LEASED PROPERTY HAVE BEEN DESIGNATED AND SELECTED BY THE COMPANY. THE ISSUER HAS NOT MADE AN INSPECTION OF ANY PORTION OF THE LEASED PROPERTY. THE ISSUER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS, IMPLIED OR OTHERWISE, WITH RESPECT TO ANY PORTION OF THE LEASED PROPERTY OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY OF THE SAME, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN THE SAME. ALL RISKS INCIDENT TO THE LEASED PROPERTY ARE TO BE BORNE BY THE COMPANY. THE ISSUER WILL HAVE NO LIABILITY WITH REGARD TO OR ARISING OUT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN ANY PORTION OF THE LEASED PROPERTY, WHETHER PATENT OR LATENT. THE PROVISIONS OF THIS SECTION 4.3 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE ISSUER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PORTION OF THE LEASED PROPERTY, WHETHER ARISING UNDER THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT.

IV.4. Completion Date.

On the date the Project is complete in the sole opinion of the Company (the “Completion Date”), the Company will deliver to the Issuer and the Depositary a certificate signed by an Authorized Company Representative stating that, except for specified amounts remaining in the Acquisition Account for any specified Costs of the Project incurred by the Company but not then due and payable, the Project is complete and all costs of labor, services, materials and supplies in connection with the Project have been paid for or provisions have been made for their payment. Subject to delays caused by Force Majeure, the Company will cause the Completion Date to occur not later than October 1, 2055. After the transfer of remaining moneys in the Acquisition Account to the Company pursuant to Section 6.05 of the Indenture, the

Company will have sole responsibility for the payment of any Costs of the Project in excess of the amount specified to be retained in the Acquisition Account.

IV.5. Gross Receipts and Compensating Tax.

A. The Company, either on its own behalf or as agent for the Issuer pursuant to Section 4.1 and this Section 4.5, will file returns for reporting and paying any gross receipts tax or compensating tax which is due related to the Project. The Company, as agent for the Issuer, will apply to the TRD for nontaxable transaction certificates (as such term is used in the Gross Receipts and Compensating Tax Act, Chapter 7, Article 9, NMSA 1978, as amended) (“Nontaxable Transaction Certificates”). Nontaxable Transaction Certificates shall be executed and delivered by the Company, as agent for the Issuer, to vendors, in order to permit the vendors to claim deductions available under the New Mexico Gross Receipts and Compensating Tax Act for the vendors’ receipts from the Company, as agent for the Issuer, for sales of the Improvements. To the extent consistent with State law, the Issuer will cooperate with the Company in the obtaining of Nontaxable Transaction Certificates. The Company will pay within any statutory deadlines any gross receipts or compensating tax plus applicable penalty and interest that is found by the TRD to be due from the Company or the Issuer with respect to the Project. The Company, at its sole expense, may request any rulings from the TRD which the Company determines may be necessary or desirable to clarify the New Mexico gross receipts and compensating tax implications of transactions related to the Improvements and may dispute, at its sole expense, in any manner authorized by the New Mexico Tax Administration Act or other applicable procedures, any gross receipts or compensating tax liability imposed on the Company or the Issuer because of the Project. The Issuer agrees, at the request and expense of the Company, to make reasonable modifications to this Lease that are necessary or desirable to obtain Nontaxable Transaction Certificates or otherwise reduce the gross receipts and compensating tax imposed upon the Company or the Issuer as a result of the Project or its operation.

B. The Company has advised the Issuer and it is intended by the parties hereto that the receipts of vendors from the sale of tangible personal property to the Issuer, which tangible personal property (i) is included in the Improvements (but excluding certain “construction material” as provided for in Section 7-9-3.4(B) NMSA 1978, as amended and modified at Section 7-9-54(A)(3) NMSA 1978) and (ii) is purchased or reimbursed with proceeds of the Bonds on or prior to the Completion Date, shall be deductible from gross receipts or governmental gross receipts, and exempt from compensating tax, to the fullest extent permitted by Sections 7-9-14 and 7-9-54 NMSA 1978, as amended, and applicable regulations. The deduction from gross receipts or governmental gross receipts, and the exemption from compensating tax, shall not apply to purchases of Improvements except as provided in the preceding sentence, and, except as contemplated in the preceding sentence, the Company shall not be authorized by this Lease to provide Nontaxable Transaction Certificates to vendors.

IV.6. Termination of Lease or Cessation of Operations; Assessment in the Company's Name.

Subject to the Closure Claw-Back provision of this Agreement, in the event the Company terminates this Agreement or if there is a cessation of operations of the Project (other than the Temporary Cessation or Interruption of Operations as defined in Section 4.19 hereof), the Company will take all necessary action to have the Leased Property assessed for property tax purposes in the name of the Company promptly following termination of the Agreement or cessation of operations by having the Leased Property reconveyed to the Company. Subject to the Closure Claw-Back provision of this Agreement, effective as of the date of termination, the Company's obligation to pay any future PILOT shall cease and the Company shall not be liable for any such PILOT due and payable after the termination date or cessation date, provided that the Company or the successor in interest in the Leased Property shall be liable for property taxes thereafter levied on the Leased Property.

If this Lease has not been terminated on or before October 1, 2055 and if the Leased Property was not assessed for property tax purposes during the Term, the Company (which, for purposes of this Section 4.6, means the then current lessee of the Leased Property under this Lease) will take all necessary action to have the Leased Property assessed for property tax purposes in the name of the Company by October 28, 2055, and the Company (or, if the Issuer does not hold title to the Leased Property, the holder of such title) will pay all *ad valorem* taxes on the Leased Property from and after October 28, 2055. If the Leased Property must be transferred to the Company to accomplish such assessment, this Lease will thereafter be construed to be an installment sale agreement and all terms and provisions of this Lease will remain in full force and effect. The provisions of Article IX of this Lease govern the delivery and form of any such deed, bill of sale or other transfer.

If the Company fails to comply with its obligation to get the property assessed in its name as set forth in this Section by October 28, 2055, then, the Issuer execute, deliver and cause to be recorded, at the expense of the Company, a bill of sale and such other conveyance documents with respect to the Leased Property and otherwise take all steps necessary to have the Leased Property immediately assessed for property tax purposes in the name of the Company as if the Lease had been terminated. The Company shall reimburse the Issuer or pay on behalf of the Issuer all of the Issuer's expenses (including, but not limited to, reasonable and documented counsel fees and expenses) incurred in effecting such assessment. In anticipation of the conveyance of the Leased Property by the Issuer to the Company, the Issuer has, upon the request of the Company, delivered to the Depositary, as escrow agent, appropriate documents, including but not limited to, a deed and bill of sale, prepared by the Company at the Company's expense, conveying to the Company the Issuer's interest in the Leased Property; such documents to be delivered to the Company at the time of purchase of the Leased Property.

IV.7. Compliance with Law.

The Company will obtain or cause to be obtained all necessary permits and approvals for the construction, occupancy, operation and maintenance of the Leased Property, will comply with all Applicable Environmental Laws and all lawful requirements of any governmental body, agency or department regarding the use or condition of the Leased Property and will cause the Leased Property, upon completion and during the Term, to comply with all applicable restrictive covenants and all other applicable laws, ordinances, statutes, rules and regulations relating to the Leased Property as a whole. The Company may in good faith contest the validity or the applicability of any such requirement. During the period of such contest and any related appeal, this Section 4.7 will be deemed satisfied with respect to the requirement so contested.

IV.8. Nuisance Not Permitted.

The Company will not permit or suffer its tenants, agents, employees, invitees (including contractors and subcontractors), guests or other visitors to commit a nuisance on or about the Leased Property or itself commit a nuisance in connection with its use or the occupancy of the Leased Property. The parties agree that the Company's maintenance of noise levels consistent with any local noise limitations in place during the Term will be deemed compliance with this provision.

IV.9. Taxes and Utility Charges.

The Company will pay, or cause to be paid as and when due, (i) all taxes, assessments and governmental and other charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Leased Property; (ii) all utility and other charges incurred in the operation, maintenance, use and upkeep of the Leased Property and (iii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by any lien on the Leased Property. The Company may, in good faith, contest the amount or validity of any such levy, tax, assessment or other charge by appropriate legal proceedings. During the period of such contest and any related appeal, this Section 4.9 will be deemed satisfied with respect to any such levy, tax, assessment or other charge so contested.

IV.10. Maintenance.

The Issuer will not be under any obligation to, and will not, operate, maintain or repair the Leased Property. During the Term of this Lease, the Company will, in its discretion and at its own expense, keep the Leased Property in safe repair and in such operating condition as is needed for operations of the Leased Property and make, or cause to be made, all necessary repairs and replacements to the Leased Property (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) as determined in the Company's sole discretion.

IV.11. Replacement and Removal of Leased Property.

The Company may from time to time replace any machinery, equipment or fixtures or other such Improvements, or parts thereof, constituting a part of the Leased Property and acquire title to such machinery, equipment or fixtures, provided that such replacement or removal will not change the nature of the Project as a qualified “project” as defined in and as contemplated by the Act. Upon request of the Company, the Issuer will deliver to the Company appropriate instruments evidencing the acquisition by the Company of title to any Leased Property permitted by this Section 4.11 to be so replaced or removed. The provisions of Article IX govern the delivery and form of any such instruments. The removal from the Project of any of the Leased Property, if any, pursuant to the provisions of this Section will not entitle the Company to any abatement or diminution in amount of the Basic Rent and Additional Payments, Community Benefits Obligations, PILOTs payable under this Agreement. The Company may acquire machinery, equipment or other property (other than fixtures) which does not constitute a part of the Leased Property and title to any such property will not thereby be transferred to the Issuer.

IV.12. Eminent Domain; Damage; Destruction.

The Company will give prompt notice to the Issuer and the Purchaser of any material damage to or destruction of the Leased Property. If either the Issuer or the Company receives notice of the proposed taking of all or any part of the Leased Property by Eminent Domain, it will give prompt notice to the other and the Purchaser. Any such notice will describe generally the nature and extent of such damage, destruction, taking or proposed taking. Unless otherwise provided in any Company Financing, the Proceeds resulting from the exercise of Eminent Domain with respect to or from any damage to or destruction of all or any portion of the Leased Property will be paid to the Company.

IV.13. Insurance.

Subject to the provisions of the Business Lease, the Company will keep the Leased Property continuously insured against such risks and in such amounts, with such deductible provisions, as are reasonable and customary as determined by the Company in connection with the type and size of the Leased Property. Each property insurance policy will show the Company as loss payee and each commercial general liability insurance policy will show the Company as loss payee and the Issuer as an additional insured, under such policies. Such insurance will include a waiver of subrogation in favor of the Issuer. Such insurance may, to the extent permitted under applicable law, be provided by blanket policies maintained by the Company, by a captive insurance company controlled by the Company or through self-insurance. Such insurance will include general liability insurance against liability for claims for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition of the Leased Property. Failure to maintain the required insurance shall constitute a material breach of this Agreement. Insurance obligations shall survive termination of this Agreement for any claims arising from acts or omissions occurring during the term of this Agreement.

IV.14. Access and Inspection.

Subject to the reasonable confidentiality, security and safety requirements and policies of the Company, including, but not limited to, the execution of non-disclosure and confidentiality agreements by the Issuer, and with at least two-weeks' advance written notice to the Company, during the Term, the Company will give the Issuer, the Purchaser and their duly authorized agent during regular business hours (i) such rights of access to the Leased Property as may be reasonably necessary to inspect the progress of the Project and (ii) the right of entry onto the Leased Property as a whole for any purpose contemplated by this Lease. The Company will execute, acknowledge and deliver all such further documents, including any easement, and do all such other acts and things as may be reasonably necessary in order to grant to the Purchaser such rights of access and entry. During the Term, such rights of access and entry will not be terminated, curtailed or otherwise limited by any sale, assignment, lease or other transfer of the Leased Property by the Company to any other Person. Issuer will, at all times, protect any Confidential Information obtained during an inspection or otherwise through discussions with the Company. For the avoidance of doubt, the right of entry granted to the Issuer, the Purchaser and their duly authorized agent shall not include: (a) any access to the restricted areas of the Project as reasonably designated by the Company or any of the Equipment; (b) access to the Company's intellectual property or other proprietary information; or (c) the right to use any of the Equipment.

IV.15. Liens.

Except for Permitted Liens, the Company will not suffer any material liens to exist on the Leased Property as a result of any claims brought against the Company or others pursuant to a right or interest not existing in connection with, or permitted by, this Lease. The Company will notify the Issuer and the Purchaser of the existence of any lien, other than a Permitted Lien, on the Leased Property within 60 days after such lien attaches. The Company may, in good faith, contest the validity of any lien on the Leased Property. During the period of such contest and any related appeal, this Section 4.15 will be deemed satisfied with respect the lien so contested. Notwithstanding the foregoing and unless otherwise prohibited in a Company Financing Lien, Company may impose a lien on any of the Leased Property held by the Issuer during the term of the Lease in order to protect its interest in the underlying property in the event of insolvency of Issuer.

IV.16. Use of Project; Project and Closure Claw-Backs.

A. The Company will use the Project continuously during the Term so as to constitute a "project" within the meaning of the Act as in effect on the date of issuance of the Bonds. As used in this Section 4.16, "continuously" means regularly and without an employment loss during any 90-day period of 75% or more of the non-construction jobs at the Project for the immediately prior year. Temporary cessation of operations shall not constitute a failure by the Company to comply with this Section 4.16(A) if such temporary cessation is (i) during holiday periods or as a result of maintenance or

renovation of the Leased Property or other similar circumstances, in each case without an employment loss during any 90-day period of 75% or more of the non-construction jobs at the Project for the immediately prior year; or (ii) as a result of Force Majeure (collectively, the “Temporary Cessation or Interruption of Operations”).

B. If the Company fails to use the Project consistent with the definition of “project” as defined by the Act as in effect on the date of issuance of the Bonds, the Company shall pay to the Issuer an amount equal to all *ad valorem* taxes abated as a result of the Leased Property being owned by the Issuer for the year in which such failure occurs, less all amounts paid by the Company pursuant to Section 5.10 (the “Project Claw-Back”) and the Issuer shall be entitled to terminate the Lease.

C. In the event of a temporary cessation of operations permitted by the third sentence of subsection A of this Section 4.16, the Company shall use its best efforts to resume operations of the Project so as to constitute a “project” within the meaning of the Act. Failure to resume operations of the Project by not later than 12 months from the expiration of the 30-day period referred to in subsection A or from the cessation of the event of Force Majeure shall constitute a failure to comply with subsection A of this Section 4.16. In such event, the Company shall pay to the Issuer, not later than 30 days after expiration of the 12-month cure period referred to above, an amount equal to all *ad valorem* taxes abated as a result of the Leased Property being owned by the Issuer for the year in which such failure occurs, less all amounts paid by the Company pursuant to Section 5.10 (the “Closure Claw-Back”). For purposes of this subsection, in the event of a Force Majeure, operations include the repair or rebuilding of the Project.

D. If the Company permanently ceases operations in the County on or before October 1, 2030, the Company will repay to the Issuer the percentage shown below of the *ad valorem* taxes on the Leased Property that the Company would have been required to pay if the Bond had not been issued by the Issuer and the Leased Property had been subject to *ad valorem* taxation. The abated tax shall be calculated using mill levies and actual property tax valuations and rates for each tax year. All PILOT attributable to this Lease, PILOT Increases (defined below), Project Claw-Backs previously made by the Company to the Issuer will be credited towards the payment of such amount.

<u>Elapsed Time from Issue Date of Bond</u>	<u>Percentage of Abated Tax to be Repaid</u>
Years 0-3	100%
Year 4	70%
Year 5	40%
Year 6 and thereafter	0%

IV.17. Easements.

The Company may at any time or times grant easements, licenses, rights-of-way (temporary or perpetual and including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any part of the Leased Property and the Company may release existing interests, easements, licenses, rights-of-way and other rights or privileges with or without consideration. The Issuer will join in any such grant or release at the reasonable request and expense of the Company upon receipt by the Issuer of a certificate executed by an officer of the Company stating (i) that such grant or release is not detrimental to the proper conduct of the business of the Company, (ii) that such grant or release will not materially impair the effective use of the Leased Property or materially interfere with the operation of the Project, and (iii) that such grant or release is permitted pursuant to any Company Financing Liens.

IV.18. Local Hiring.

Commencing with the issuance of the Bonds, the Company agrees to use its best efforts to offer appropriate positions for the operation of the Project to qualified applicants residing in Doña Ana County where such applicants possess qualifications for such positions equal to or greater than the qualifications of other applicants who might exist at the time of hiring. The Company agrees to coordinate with the County to publicize its hiring needs, and to participate in job fairs within the County in the year prior to commencement of operations.

IV.19. Local Purchasing.

The Company will coordinate with the Issuer to publicize its requirements for labor, services, materials and supplies to encourage participation by vendors based within Doña Ana County in connection with the construction, acquisition, installation and operation of the Leased Property.

IV.20. PILOT Increase.

A. If the sum of full-time equivalent employees and 50% of part-time employees attributable to the Project is less than (i) 45 on December 31, 2029, (ii) 75 on December 31, 2030 and (iii) 75 on December 31, 2031 (each such employment figure a “Job Target” and each such date a “Job Target Date”), as set forth in the annual report of the Company to the Issuer pursuant to Section 4.21, and such employment shortfall is not cured prior to February 28 of the calendar year following such Job Target Date (the “Employment Cure Period”), then the Issuer may require an increase to the Company’s PILOT due pursuant to Section 5.10 until the Job Target requirements are satisfied (the “PILOT Increase”). The amount of the PILOT increase will not exceed the maximum applicable percentage (the “Applicable Percentage”) shown below, and such amount shall

be calculated by multiplying the Applicable Percentage to the PILOT due pursuant to Section 5.10 for the year immediately following the applicable Employment Cure Period. The Company may report jobs pursuant to this section that are employed by third parties but present at the Project. The job requirements in this Section are for the entire data center campus as explained in the annual report described in Section 4.21. For the avoidance of doubt, a job may be reported only once across all Subseries 2025B Leases and this Lease.

Percentage of Actual vs. Projected Full-Time Employees on Job Target Date	Applicable Percentage of PILOT Increase
80%-100%	0%
65%-79%	15%
50%-65%	30%
30%-49%	45%
less than 30%	60%

The Issuer acknowledges that the purpose of the PILOT Increase is not to penalize the Company for business conditions or events that are outside the control of the Company. Accordingly, if an Adverse Economic Event (as defined below) has occurred on or prior to a Job Target Date, the Company may request by written notice to the Issuer at least 30 days before the Job Target Date, that the Issuer defer the Job Target Date for a 12-month period (the “Deferred Job Target Date”) and the Issuer agrees that such request for deferral will not unreasonably be denied. As evidence of the Adverse Economic Event, the Issuer may request that the Company provide a certificate attesting to the existence and impact of the Adverse Economic Event on the Company’s operations. In the event that the Adverse Economic Event continues to adversely affect the Company’s operations on the Deferred Job Target Date, the Company may request that the Issuer reconsider and/or adjust the employees required for the Job Target Date or the Applicable Percentage and/or provide an additional deferral of the Job Target Date and the Issuer agrees to consider such request in good faith. For the purposes hereof “Adverse Economic Event” means Force Majeure, a decline in the gross domestic product (GDP) of the United States economy for two (2) or more consecutive quarters, labor disputes or other conditions, a material decline in the demand for data server capacity and related products either in the State of New Mexico, or in the United States in general, as reported by a data center industry-recognized information source or governmental successor thereto for two (2) or more consecutive quarters or other events beyond the Company’s reasonable control.

In the event that the Issuer determines there is a substantial shortfall of actual versus projected jobs, then the Issuer may require a PILOT increase for the year immediately following the applicable Employment Cure Period to the extent provided for in the table above.

B. Notwithstanding anything to the contrary in this Lease, the Issuer may not assess a ClawBack for an amount exceeding: (i) the aggregate amount of exempted *ad valorem* taxes that would have been due to all taxing authorities from the Company and its vendors in connection with the Leased Property if the Bonds had not been issued from the date of the Inducement Resolution to the date when the Issuer assessed said Claw-Back, minus (ii) any and all payments made under the PILOT plus any and all previously paid ClawBacks. The Issuer may reduce the amount of a Claw-Back to ensure that such Claw-Back meets the requirements of this Section 4.20(C). Claw-Backs may only be assessed on an annual basis.

IV.21. Annual Report.

The Company agrees to submit to the County Manager of the Issuer on an annual basis beginning no later than July 31, 2026 and each July 31st thereafter a report with respect to the immediately preceding calendar year (or the relevant portion of such fiscal year if not a full fiscal year) (i) containing a certificate signed by an Authorized Company Representative stating the number of employees of the Company for the Project (including the number of full time employees and part-time employees on any applicable Job Target Date in that period and whether such employment records meet the Job Targets outlined in Section 4.20); (ii) any other reporting requirements imposed by the Governmental Accounting Standards Board (“GASB”), including, but not limited to, Statement No. 77 of GASB, or other State or federal agencies; and (iii) any other data reasonably requested by the Issuer including, but not limited to, information of a general nature provided in the Company reports related to the local economic development incentives received by the Company from the State and the Issuer.

IV.22. Outstanding Principal Amount Report.

The Company agrees to submit to the Issuer’s County Manager on an annual basis beginning no later than July 31, 2026, and each July 31 thereafter a report signed by an Authorized Company Representative stating the outstanding principal amount of the Bonds as of June 30 of that year.

IV.23. Data Protection.

A. Covered Data. Between the Issuer and the Company, all Covered Data and Leased Property transmitting or containing Covered Data will be solely under Company’s control, and Issuer shall not have any rights to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over or ownership or other rights to any Covered Data. In the event Issuer receives any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Covered Data, Issuer will immediately and in no

event later than five (5) Business Days notify Company and provide Company with any information it has or receives in relation to such claim, inquiry, request or legal demand and provide Company with any reasonable assistance requested by Company to address such claim, inquiry, request or legal demand as determined in the sole discretion of the Company and to ensure that the Covered Data is treated as confidential information of Company and to afford Company a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such claim, inquiry, request or legal demand. Under no circumstances may Issuer access and/or provide such Leased Property or Covered Data to any third party, including any governmental entity, whether in response to any claim, inquiry, request or legal demand from such third party or otherwise.

B. Software. The Issuer acknowledges that the Company Software is proprietary to Company and is to be used solely by Company. Issuer receives no license or other rights to the Company Software. The Issuer shall not access, appropriate, or otherwise use the Company Software and agrees not to disclose or otherwise make available the Company Software and/or related technology to any third parties.

C. Security Incidents. Between the Issuer and the Company, the response to any and all Security Incidents (including, without limitation, all remediation and preventative efforts) will be solely under Company's control. Issuer shall notify Company promptly and in no event later than one (1) Business Day following its actual discovery of any Security Incident that Company has not previously alerted Issuer to and that has not previously been publicly disclosed (either by or on behalf of Company or by a third party). Issuer agrees that it will not communicate with any third party (including, but not limited to, any governmental entity, the media, vendors, or consumers) regarding any Security Incident without the express written consent and direction of Company, except as required by applicable law; provided, however, nothing herein shall prevent the Issuer from retaining and conferring with counsel for the Issuer, at the sole expense of the Company. Upon Company's request, pursuant to Company's instruction, and at Company's sole cost and expense, Issuer shall reasonably support Company in its response to the Security Incident, including, without limitation, assistance with or the performance of all reasonably necessary and corrective action.

IV.24. Confidential Information.

A. The Issuer acknowledges and agrees that:

(i) Issuer shall (i) keep Confidential Information strictly confidential, (ii) use it solely to administer and perform the Bond Documents, and (iii) disclose it only to their representatives or financing sources (and related parties) on a needtoknow basis who are bound by written confidentiality obligations at least as protective as this Section, or as required by law or applicable rules and regulations.

(ii) At the sole cost of the Company, Issuer will implement and maintain reasonable administrative, technical and physical safeguards appropriate to the sensitivity of the Confidential Information (including secure transmission and storage, access controls, and prohibition on use of personal email or unapproved devices for storage/transmission) as reasonably requested by the Company.

(iii) Upon Company's written request or upon expiration/termination of the applicable Bond Document, each recipient will promptly (x) return or destroy Confidential Information (including copies and extracts) and (y) certify such destruction; provided a recipient may retain archival copies to the extent required by law or bona fide record retention policies, which copies shall remain subject to this Section until destroyed.

(iv) If the Issuer (or, if applicable, Company or Depositary) receives any request under public records/open records laws or other similar laws that may call for disclosure of Confidential Information, it shall promptly (and, where practicable, before producing any documents) notify Company and reasonably cooperate, at Company's expense, to assert applicable exemptions (including trade secret, confidential business information, critical infrastructure and securitysensitive information) and to seek protective orders or other relief. Only the minimum portion of information that is legally required to be disclosed shall be produced, and all legally permissible redactions shall be applied.

(v) Company is entitled to seek injunctive and other equitable relief (without posting bond) to prevent or curtail unauthorized disclosures or use, in addition to any other remedies available at law or equity. To the maximum extent permitted by law, no party shall be liable for consequential, incidental, special or punitive damages in connection with a breach of this Section, except to the extent awarded to a third party in connection with a thirdparty claim, which third-party claims shall be subject to the provisions of Section 5.7 hereof. For the avoidance of doubt, pursuant to Section 4-59-6(C) NMSA 1978, no breach of this Agreement shall impose any pecuniary liability upon the Issuer or any charge upon its general credit or against its taxing powers.

(vi) The Company acknowledges and agrees that any unauthorized disclosure or failure by the Issuer to satisfy any obligations contained in this Section that was inadvertent, unintentional, or immaterial and, upon written notice from the Company to the Issuer, is promptly remedied to comply with the provisions of this Agreement to the extent noncompliance is subject to remedy, shall be deemed compliance with this Section by the Issuer.

IV.25. Stored Data.

A. The Issuer acknowledges and agrees that:

(i) The Stored Data shall be owned and controlled exclusively by the Company (or its permitted successors or assigns) at all times.

(ii) At all times, the Company may destroy, relocate or let remain the Stored Data, or take any other action with respect to the Stored Data, in its sole and absolute discretion, without consulting or delivering any notice to the Issuer.

(iii) The Issuer has no right, title or interest whatsoever in or to the Stored Data, including, without limitation, any right to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over the Stored Data, or to allow any Person to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over the Stored Data. In the event Issuer receives any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Stored Data, Issuer will notify Company immediately, and in no event later than five (5) Business Days, and provide Company with any information it has or receives in relation to such claim, inquiry, request or legal demand and provide Company with any reasonable assistance requested by Company to address such claim, inquiry, request or legal demand to ensure that the Stored Data is treated as confidential information of Company and to afford Company a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such claim, inquiry, request or legal demand. The Company shall assist and support the Issuer, at the Company's sole expense, in timely responding to any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Stored Data; provided that nothing herein shall prevent the Issuer from complying with any writs, orders, judgments, or decree by a court or an administrative agency have jurisdiction over the matter.

(iv) This Section 4.24 shall survive the expiration of the Term.

IV.26. Limitation on Claw-Back Under this Agreement.

Issuer and Company acknowledge that the Company is relying on the benefits provided for in this Agreement to incur the expenses necessary for the success of the Project. Accordingly, Issuer and Company agree, that in no event shall Company be denied the ability to obtain or retain any such benefits (i) unless Company has first received notice with sufficient time to cure any Event of Default or Claw-Back in accordance with any requirements under this Agreement with sufficient time to cure any Event of Default or Claw-Back pursuant to any cure periods provided pursuant to this Agreement, or (ii) if any failure by Company to satisfy any obligations contained herein was inadvertent, unintentional, or immaterial and is promptly remedied to comply with the provisions of this Agreement. For the avoidance of doubt, this Section shall not be construed or interpreted to modify any other provision of this Agreement including, but not limited to any provision related to notice, cure periods, or procedures related to defaults as agreed to by the Parties herein.

IV.27. Existence. Unless its successor or the transferee of its assets, as the case may be, assumes in writing all of the obligations of the Company under the Bond Documents, the Company will maintain its existence as a limited liability company and will not dispose of all or substantially all of its assets, other than through execution of this Agreement. The Company shall have the right to change its organizational structure (including, without limitation, a merger with another entity), provided such restructured organization or surviving entity (if other than the Company) assumes in writing all of the obligations of the Company under the Bond Documents. Original executed copies of such assumption will be delivered to each of the other Parties on or before the effective date of such succession or transfer. To the extent necessary under State law, the Company and its successors or transferees will become and remain authorized to transact business in the State and, if applicable, in good standing in the State.

V. LEASE; TERM; POSSESSION; RENT; INDEMNIFICATION; ISSUER PAYMENT

V.1. Lease of the Leased Property; Term.

In consideration of the payment of Rent and for other good and valuable consideration, the Issuer leases the Leased Property, to the extent acquired by the Issuer, to the Company for the Term. To the extent permitted by law, the Issuer and the Company will cooperate and take all actions in compliance with Section 10.8 herein to allow for the continuation of the property tax, gross receipts tax and compensating tax exemptions described in N.M. Const., Article VIII, Section 3; NMSA 1978, Section 7-36-3 (2024) (including any successor statutes thereto); and Section 4.5 herein.

V.2. Quiet Enjoyment.

The Issuer will not take any action, other than pursuant to Section 4.14 or Article VII, to prevent the Company from having quiet and peaceable possession and enjoyment of the Leased Property during the Term (except as necessary with respect to Eminent Domain for public projects and purposes or the exercise of its rights hereunder) and will, at the request of the Company and at the Company's expense, to the extent the Issuer may lawfully do so, join in any legal action in which the Company asserts its right to such possession and enjoyment against any third party.

V.3. Rent.

A. The Company will pay to the Purchaser for the account of the Issuer, such amounts at such times as are necessary to make all payments of principal of, interest on and any redemption price of the Bonds in accordance with the terms of the Bonds and the Indenture as and when due (collectively, the "Basic Rent"). The parties acknowledge that the Company may pay, discharge and redeem the Bonds for the account of the Issuer by offsetting amounts owed under the Bonds to the Purchaser against monies due and payable to the Company by the Purchaser, including but not limited to monies advanced

by or on behalf of the Company to or on behalf of the Purchaser in anticipation of making advances on the Bonds under the Indenture;

B. The Company will also make the following payments (the “Additional Payments” and, together with the Basic Rent, the “Rent”):

(i) to or on behalf of the Depositary, the reasonable fees and charges of the Depositary for all services of the Depositary, and all reasonable and documented expenses (including reasonable and documented counsel fees and counsel expenses) incurred by the Depositary in connection with its duties under the Indenture, if scheduled, when due and, otherwise, promptly on demand by the Depositary, which fees, charges and expenses may be more specifically determined by an agreement between the Depositary and the Company; and

(ii) to or on behalf of the Issuer, all reasonable out-of-pocket costs and expenses, including, but not limited to, reasonable financial advisor fees, counsel fees whether contract county attorney fees, bond counsel or any other counsel representing the Issuer in connection with matters arising under this Agreement or the Project and reasonable and documented expenses paid or incurred by the Issuer in connection with the issuance of the Bonds, the performance of its duties under this Lease, and the Indenture, and post-issuance work or legal assistance required by the Issuer in relation to this Lease, the Sublease, the Indenture or any documents associated to the Bonds, promptly on demand of the Issuer including, but not limited to: (i) the negotiation, preparation, approval, execution and delivery of the Bonds, the Sublease, the Indenture, this Agreement and the other documents and instruments related hereto and thereto; (ii) any amendments or modifications to any of the foregoing documents, instruments or agreements and the negotiation, preparation, approval, execution and delivery of any and all documents necessary to effect such amendments or modifications; (iii) the enforcement by the Issuer, during or after the Term of any of the rights or remedies of the Issuer under any of the foregoing documents, instruments or agreements including without limitation, reasonable and documented costs and expenses of collection, whether or not suit is filed; (iv) the servicing and administration of the Bonds during the Term or thereafter; (v) any requested subordination of the Issuer’s interest in the Leased Property to a lender or lenders;

(iii) to the Issuer, its annual administration fee of \$5,000 per year for so long as the Bonds remain outstanding such annual administration fee to be payable on the same date as the payment of PILOT as described herein; and

(iv) to the Issuer, and in addition to any other amounts owed under this Lease or any related agreement, the Issuer’s reasonable and documented expenses incurred in connection with the amendment of this Lease or any related agreement.

C. Each of Company, Issuer, and Purchaser (each a “Party”) agrees that, to the fullest extent permitted by applicable law, if at any time amounts are owing by a Party to the other Party under this Agreement (except as provided below with respect to the Issuer) or any other agreement between the same two parties, such Party may set off and apply any and all such amounts (whether now existing or hereafter arising, whether due or to become due, and whether liquidated or unliquidated but then determinable) against any and all amounts then owed by the other Party to such Party under this Agreement or any other agreement, in each case producing a single net amount owed by one Party to the other; provided, however, the only amount that may be offset with respect to the Issuer pursuant to this Agreement or any other agreement between the Issuer and any other Party shall be the Basic Rent payments due from the Company which have been assigned to the Purchaser. The Parties state their intent to settle on a net basis to the extent legally enforceable; provided that such settlement on a net basis shall be permitted between the Issuer and any other Party solely with respect to Issuer’s interest in the Basic Rent, if any, and will not apply to any other interest of the Issuer, including without limitation Issuer’s interest in the Reserved Rights and any fees owed to the Issuer. Any Party exercising setoff shall give prompt notice to the other Party (which notice may be provided after the fact or due to the related nature of the Company and Purchaser, be implicit by action), and shall provide reasonable supporting calculations upon request. The rights in this Section are continuing, unconditional, and survive termination of this Agreement and any other agreement.

V.4. Obligations Unconditional.

The obligation of the Company to pay Rent and to perform its other obligations under this Lease is absolute and unconditional and will not be subject to diminution by setoff, counterclaim, abatement or otherwise, whether as a result of damage to or destruction of or removal of all or any portion of the Leased Property or any other event or condition. In the event the Issuer fails to perform any of its obligations under this Lease, the Company, at its own cost and expense, may institute such action against the Issuer as the Company may deem necessary to compel such performance. The Company may also, at its own cost and expense and in its own name or, if legally necessary, in the name of the Issuer, prosecute or defend any action or proceeding or take any other action involving third parties which the Company deems reasonably necessary in order to secure or protect its title to or its right of possession and use of the Leased Property. In such event, if no Event of Default has occurred and is continuing, the Issuer will cooperate with the Company, so long as it is not the adverse party, upon receipt of indemnity satisfactory to the Issuer against any reasonable and documented out-of-pocket cost, expense (including reasonable and documented counsel fees and expenses) or liability the Issuer may incur or suffer as a result of or in connection with such cooperation.

Notwithstanding the above paragraph, it is the intention of this Lease that the Company shall make payments to the Purchaser for the account of the Issuer, in such amounts and at such times as are necessary to make all payments of principal of, interest on and

redemption price of the Bonds in accordance with the terms of the Bond Documents as and when due. The Purchaser will look only to the Company for payment of the Bonds and upon the security granted in the Indenture for the Company's obligations under this Lease. As described in Section 6.1 hereof and in Section 3.01 of the Indenture, the Issuer will assign and pledge to the Purchaser all right, title and interest of the Issuer in and to this Lease including the right to receive Rent payments hereunder, excluding the Issuer's rights under Sections 4.2, 4.6, 4.13, 4.16, 4.20, 4.21, 5.3 B(ii), 5.3 B(iii), 5.3B(iv), 5.6, 5.7, 5.8, 5.10, 7.5, 7.6 and 9.1 hereof and any other provision hereof which requires notice, consent, payment, indemnification and reimbursement to the Issuer.

V.5. Filing; Further Assurances.

The Issuer and the Company will, at the direction of the Purchaser and at the expense of the Company, take all actions that at the time are and from time to time may be reasonably necessary to perfect, preserve, protect and secure the interests of the Issuer and the Purchaser in and to the Rent and in the Leased Property, including, without limitation, the filing of financing statements and continuation statements, the amendment of this Lease to include additional property in the Leased Property and the execution, acknowledgement, delivery and filing of any other necessary agreements and instruments. The Issuer will execute such instruments as may be reasonably requested by the Company to permit compliance with this Section 5.5.

V.6. Claims.

The Company will pay and discharge and will indemnify and hold harmless the Issuer from (i) any lien or charge upon payments by the Company to, or for the account of, the Issuer under this Lease and (ii) any taxes, assessments, impositions and other charges in respect of the Leased Property. If any such claim is asserted, or any such lien or charge upon payments, or any such taxes, assessments, impositions or other charges, are sought to be imposed, the Issuer will give prompt notice to the Company, and the Company will have the sole right and duty to assume the defense of the same and will have the power to litigate, compromise or settle the same.

V.7. Indemnity, Expenses.

A. To the extent not caused or occasioned by the gross negligence or willful misconduct of the Indemnified Persons or any Indemnified Person (as such terms are defined below), the Company shall indemnify and hold the Issuer and its governing body, officers, agents, and employees or other elected or appointed officials of the Issuer, past, present or future (hereinafter, the "Indemnified Persons" or "Indemnified Person") harmless from and against any and all claims, damages, demands, expenses, liabilities and losses of every kind, character and nature asserted by or on behalf of any person in connection with (i) the issuance, offering, sale, delivery, or remarketing of the Bonds, including but not limited to any liability that may arise under federal or New Mexico

securities laws as a result of inaccurate information supplied by the Company in connection with the issuance of the Bonds or any subsequent sale of the Bonds, the Indenture, this Lease, and any documents executed in connection with the Bonds and the Leased Property and the obligations imposed on the Issuer hereby and thereby or the Issuer's legal ownership or leasing of the Leased Property; or the construction, equipping, acquisition, installation, operation, use, occupancy, maintenance, or ownership of the Leased Property; (ii) any written statements or representations made or given by the Company or any of its officers or employees or any affiliate to the Indemnified Persons or an Indemnified Person with respect to the Company, the Leased Property, the Project, or the Bonds, including, but not limited to, statements or representations of facts, financial information, or corporate affairs or any breach or default on the part of the Company in the performance of any representation, covenant or agreement of the Company under this Lease, or any related document, or arising from any acts or failure to act by the Company, or any of its agents, contractors, servants, employees or licensees; (iii) damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Leased Property; (iv) any loss or damage to property or any injury to or death of any natural person that may be occasioned by any cause whatsoever relating to the operation, installation, maintenance and use of the Property; (v) suits, legal or administrative proceedings, demands, losses, liabilities, damages, claims, causes of action, costs and expenses resulting from or in any way connected with any noncompliance with Applicable Environmental Laws including, but not limited to, the presence, release or disposal in or under the Project Site of, any hazardous substances (as defined in CERCLA), hazardous wastes (as defined in RCRA), oils, radioactive materials, asbestos in any form or condition, any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any Applicable Environmental Law; (vi) any loss, claim, action, damage, proceeding, liability, penalty, reasonable and documented litigation expenses, attorneys' fees or court costs arising out of or in any way relating to or arising out of or in connection with a Security Incident or disclosure of Confidential Information; (vii) any other loss, claim, damage, penalty, liability, disbursement, reasonable and documented litigation expenses and attorneys' fees or court costs arising out of or in any way relating to the execution of performance of this Agreement, actions taken under the Indenture, the ownership or leasing of the Leased Property or any other cause whatsoever pertaining to the Leased Property; (viii) any claim, action or proceeding brought with respect to the matters set forth in clauses (i) through (vii) and (ix) any loss or damage incurred by the Issuer as a result of violation by the Company of the provisions of Section 3.2, or arising out of, resulting from, or in any way connected with, the condition, use, possession, conduct, management, planning, design, construction, acquisition, installation and renovation or sale of the Leased Property or any part thereof or other requirements of this Lease. The Company also covenants and agrees, at its expense, to pay, and to indemnify the Indemnified Persons from and against, all costs, reasonable and documented attorney fees, expenses and costs incurred in any suit, action or proceeding brought by reason of any such claim.

If any such suit, action or proceeding is brought against the Issuer or any other Indemnified Person, the Issuer or such Indemnified Person shall, within 10 days of being notified of such suit, action or proceeding against it, notify the Company, in writing, and the Company shall promptly assume or cause the assumption of the defense thereof, including the employment of counsel chosen by the Company and approved in writing by the Issuer or such Indemnified Person (provided that such approval by the Issuer or such Indemnified Person shall not be unreasonably withheld, conditioned or delayed), the payment of all reasonable and documented expenses of such counsel and the right of the Issuer or such Indemnified Person to participate in negotiations and to consent to settlement, which consent shall not be unreasonably withheld, conditioned or delayed; provided that failure of an Indemnified Person to provide such notice will not relieve the Company from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Company, in which case the liability of the Company under this Section shall be reduced only by an amount equal to the amount of the loss sustained by the Company solely as a result of such failure to notify. If the Issuer or such Indemnified Person is advised in a written opinion of counsel that is also addressed to the Company that there may be legal defenses available to the Issuer or such Indemnified Person which are adverse to or in conflict with those available to the Company, or that the defenses of the Issuer or such Indemnified Person should be handled by separate counsel, the Company shall not have the right to assume or cause the assumption of the defense of the Issuer or such Indemnified Person; however, the Company shall be responsible for the reasonable and documented fees and expenses of counsel retained by the Issuer or such Indemnified Person in assuming its own defense, provided that prior to being retained by an Indemnified Party such counsel is approved in writing by the Company (which approval shall not be unreasonably withheld, conditioned or delayed).

If the Company shall have failed to assume or cause the assumption of the defense of such suit, action or proceeding or to retain counsel reasonably satisfactory to the Issuer or any Indemnified Person, the reasonable and documented fees and expenses of counsel retained by the Issuer or such Indemnified Person shall be paid by the Company. Notwithstanding, and in addition to, any of the foregoing, the Issuer or any Indemnified Person shall have the right to employ separate counsel with respect to any such claim or in any such suit, action or proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be paid by the Issuer or the Indemnified Person unless the employment of such counsel has been specifically authorized in writing by the Company. The Company shall not be liable for any settlement of any such suit, action or proceeding effected without the written consent of the Company, but if settled with the written consent of the Company or if there is a final judgment for the plaintiff in any such suit, action or proceeding with or without consent, and after all appeals have been taken and final orders or dismissals entered, the Company agrees to indemnify and hold harmless the Issuer or such Indemnified Person from and against any loss or liability by reason of such settlement or judgment other than a judgment merely confirming a settlement entered into without the written consent of the Company.

B. Notwithstanding the fact that it is the intention of the parties that the Issuer will not incur pecuniary liability by reason of this Lease or the undertakings of the Issuer under this Lease, by reason of the issuance of the Bond, the execution of the Bond Documents, the performance of any act required of it by the Bond Documents, the performance of any act related to the Project, the Bond Documents or the Bond requested of it by the Company or its position as owner or lessor of the Leased Property, nevertheless if the Issuer or Indemnified Person incurs any such pecuniary liability or the same is claimed or sought, then in such event the Company will indemnify and hold harmless the Issuer and any Indemnified Person against all claims by or on behalf of any person arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Issuer or Indemnified Person, the Company will defend the Issuer and Indemnified Person in any such action or proceeding. The Company shall also indemnify the Issuer or any Indemnified Person for all reasonable and documented costs and expenses, including reasonable and documented counsel fees and expenses, incurred in: (i) enforcing any obligation of the Company under this Lease or any related agreement, (ii) taking any action requested by the Company, including but not limited to, assigning, amending or terminating this Lease or any related agreement (iii) taking any action required by this Lease or any related agreement or (iv) taking any action considered necessary by the Issuer and which is authorized by this Lease or any related agreement.

C. The provisions of this Section 5.7 will be enforceable by the Issuer to the full extent permitted by law. The obligations of the Company under this Section 5.7 shall survive any assignment or termination of this Lease, the discharge of the Indenture or the resignation or removal of the Depositary or the termination of its duties.

D. To the extent, if at all, that any provision requiring one party to indemnify, hold harmless, insure or defend another party (including such other party's employees or agents) contained herein or in any related documents is found to be within the scope of Section 56-7-1 NMSA 1978, as amended from time to time, or in any way subject to, or conditioned upon consistency with, the provisions of Section 56-7-1 NMSA 1978, as amended from time to time, for its enforceability, then such provision, regardless of whether it makes reference to this or any other limitation provision, (a) shall not extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee or additional insured, as the case may be, its officers, employees or agents, and shall be further modified, if required by the provisions of Section 56-7-1(B) NMSA 1978, as amended from time to time; (b) be enforced only to the extent that the liability, damages, losses or costs are caused by, or arise out of, the acts or omissions of the indemnitor or its officers, employees or agents; and (c) be further modified, if required, by the provisions of Section 56-7-1 (B) NMSA 1978, as amended from time to time. Further, notwithstanding any other term or condition of this Lease, to the extent, if at all, that any agreement, covenant or promise to

indemnify another party (including such party's employees or agents) contained herein or in any related documents, is found to be within the scope of Section 56-7-2 NMSA 1978, as amended from time to time, or in any way subject to, or conditioned upon consistency with, the provisions of Section 56-7-2 NMSA 1978, as amended from time to time, for its enforceability, then regardless of whether it makes reference to this or any other limitation provision, such agreement is not intended to, and it does not, indemnify such indemnitee against loss or liability for damages arising from:

(a) the sole or concurrent negligence of such indemnitee or the agents or employees of such indemnitee;

(b) the sole or concurrent negligence of an independent contractor who is directly responsible to such indemnitee; or

(c) an accident that occurs in operations carried on at the direction or under the supervision of such indemnitee, an employee or representative of such indemnitee, or in accordance with methods and means specified by such indemnitee or the employees or representatives of such indemnitee.

E. The Company will not be obligated to indemnify the Issuer or any other Indemnified Person(s) under subsections (A) and (B) of this Section 5.7, to the extent any Losses are caused or occasioned by the gross negligence or willful misconduct of the Issuer or any other Indemnified Person(s) or if a court of competent jurisdiction finds that the Losses in question were caused by the willful misconduct or gross negligence of the Issuer or the involved Indemnified Person(s).

V.8. Environmental Matters.

To the extent that the Leased Property shall house petroleum or any petroleum products, asbestos, urea formaldehyde foam insulation or any other chemical, material or substance, exposure to which may or could pose a health hazard, the possession and use of such materials shall be in accordance with Applicable Environmental Law, including any applicable regulations.

To the extent that the use which the Company makes or intends to make of the Leased Property shall result in the manufacture, treatment, refining, transportation, generation, storage, disposal or other release or presence of any hazardous substance or solid waste on the Leased Property, such use will be in accordance with Applicable Environmental Law, including any applicable regulations. For purposes of this Lease, the terms "hazardous substance" and "release" will have the meanings specified in CERCLA, and the term "disposal" (or "disposed") will have the meaning specified in RCRA; provided, in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning will apply subsequent to the effective date of such amendment, and provided further, to the extent that the laws of the State establish a meaning for "hazardous substance," "release," or "disposal"

which is broader than that specified in either CERCLA or RCRA, such broader meaning will apply; provided further, that the term “hazardous substance” will also include those listed in the U.S. Department of Transportation Table (49 C.F.R. 172.101) and amendments thereto from time to time.

The Company shall promptly notify the Purchaser and the Issuer of any violation or an alleged violation of any Applicable Environmental Law related to the Leased Property of which the Company becomes aware.

The Company shall, at the Company’s sole cost and expense, remove or take remedial action as and to the extent required by Applicable Environmental Laws with regard to any hazardous substance brought onto the Leased Property by the Company or its employees, agents or contractors. If the Company fails to take any action required under this Section 5.8 within the time provided within a written notice from the applicable governmental entity having jurisdiction under Applicable Environmental Laws, the Issuer may, but shall have no obligation to, perform or arrange for the performance of such action, and the Company shall, promptly upon demand therefor, reimburse the Issuer for all reasonable and customary costs actually incurred by the Issuer in connection with the completion of such performance. The Company shall indemnify, defend, protect and hold the Issuer and the members of the Issuer’s Governing Body, its employees and agents free and harmless from any liability (including, without limitation, costs, reasonable attorneys and consulting fees, investigation and laboratory fees and litigation expenses) arising out of (a) a release of any hazardous substance in, on or under the Leased Property caused by the Company or sublessees or its employees, agents, or contractors or (b) the violation by the Company or its employees, agents or contractors of any Applicable Environmental Laws in connection with the Project. The indemnity obligations stated in this Section 5.8: (i) are in addition to the other indemnity obligations of Company hereunder, and shall survive the termination of this Lease, but (ii) shall specifically exclude any liabilities or amounts arising out of or related to the gross negligence or willful misconduct of the Issuer or any of the members of the Issuer’s Governing Body or its employees or agents.

V.9. Indenture Provisions.

The Indenture provisions concerning the Bonds and the other matters therein are an integral part of the terms and conditions of this Lease, and the execution of this Lease shall constitute conclusive evidence of approval of the Indenture by the Company to the extent it relates to the Company.

V.10. Issuer Payment; Community Benefits Agreements.

Beginning on December 31, 2025 and continuing for the Term of this Agreement, the Company shall make payments in lieu of taxes (the “PILOT”) in the amounts, on the dates and to the recipients provided in the schedule attached hereto as Exhibit B and incorporated by reference. The Issuer will provide written notice to the Subseries 2025B Companies and the Subseries 2025C Company of any failure by the Company to pay the annual PILOT under this

Section 5.10, and the Series 2025B Companies and the Subseries 2025C Company will have the right, but not the obligation, to pay any unpaid, annual PILOT under this Section 5.10 on behalf of the Company. Notwithstanding anything to the contrary contained herein, the Issuer will not take any action to terminate this Lease for nonpayment of the annual PILOT under this Section 5.10 until 30 days have elapsed from the date on which the Issuer provides written notice of the Company's nonpayment of the annual PILOT to the Series 2025B Companies and the Subseries 2025C Company. The Company's obligations under this Section shall terminate concurrently with the termination of this Lease and the payment of any unpaid and accrued payments required by this Section 5.10, any outstanding Additional Payments to the Issuer, and any amounts owed under the Community Benefits Obligations.

The Company represents that the amounts paid to the School Districts as provided in Exhibit B (the "School District PILOTs") have been calculated in accordance with the requirements of Section 4-59-4(A)(2) NMSA 1978. For the purposes of establishing the minimum School District PILOTs as required under Section 4-59-4(A)(2) NMSA 1978, the Company hereby represents that only *de minimis* land value was subject to New Mexico *ad valorem* property taxes in the tax year immediately preceding the date of issuance of the Bonds (the "Prior Tax Year") and, accordingly, New Mexico Property Taxes due or payable to any of the School Districts with respect to the Leased Property in the Prior Tax Year was less than the School District PILOTs.

All payments of the School District PILOTs shall be paid by check or by wire transfer to each of the School Districts.

In addition to the paying the PILOTs when due, the Company shall timely comply with its obligations pursuant to the Community Benefits Agreement entered into with the Issuer for the benefit, in part, of the Doña Ana Workforce Development Education Fund, the Doña Ana Community Fund, the Desalination Plant Fund, and Doña Ana Community College executed contemporaneously with the execution and delivery of this Agreement.

VI. ASSIGNMENT, LEASING AND SELLING

VI.1. Assignment of Rights by the Issuer.

In satisfaction of Issuer's obligations under bonds and as security for the repayment of the Bonds, the Issuer has assigned and pledged to the Purchaser certain rights, title and interests of the Issuer in this Lease including the right to receive Basic Rent as more fully provided in Section 3.01 of the Indenture, and hereby directs the Company to make such Basic Rent payments directly to the Purchaser. The Company consents to such assignment and pledge and agrees that it will make payments directly to the Purchaser without defense or setoff by reason of any dispute between the Company and the Issuer or the Purchaser, and hereby further agrees that its obligations to make payments hereunder and to perform its other agreements contained herein are absolute and unconditional.

VI.2. No Other Transfer by Issuer.

Except for the assignment described in Section 6.1 or as permitted in Section 6.4, Section 7.5 and Article IX, the Issuer will not sell, assign, transfer or convey its rights, title or interests in this Lease, or the Leased Property, or its obligations under this Lease, without the prior consent of the Company and the providers of any Company Financing. The parties agree that the Company will be entitled to injunctive relief and specific performance (in addition to any other remedies available to it at law or in equity) to enforce the provisions of this Section 6.2.

VI.3. Assignment, Lease, Encumbrance or Sale Involving the Company.

A. The Company may assign, lease, sublease, pledge and sell its interests in this Lease to the Subseries 2025B Companies and the Subseries 2025C Company upon notice to the Issuer, but without the Issuer's consent or approval, and the Sublease does not and will not conflict with this Lease; provided that pursuant to any such assignment, lease, sublease, pledge or sale of the Company's interests in the Lease, except for Sublease, the Company shall either remain obligated to the performance of its obligations under the Lease, or the Series B Companies and/or Series 2025C Company, as applicable, shall assume all of the obligations of the Company under this Lease; and further provided that any such assignment, lease, sublease, pledge or sale does not affect the status of the Project as a "project" under the Act.

B. In addition to the authorization provided in Section 6.3(A) hereof, if the Company is not in default under this Lease or the Indenture, the rights of the Company under this Lease may be assigned, and the rights of the Company in the Leased Property may be assigned, leased, subleased, pledged or sold as a whole or in part by the Company. No such assignment, lease, sublease, pledge or sale will relieve the Company from liability for making payments of Rent, PILOT, Community Benefits Obligations or the Additional Payments and for the performance of its other obligations under this Lease to the same extent as though no assignment, lease, sublease, pledge or sale had been made, unless the requirements in Section 6.3(C) are met and: (i) such assignment, lease, sublease, pledge or sale is to an affiliate (as such term is used in regulations pursuant to the Securities Exchange Act of 1934) of the Company, or (ii) such assignment is made to a person or entity having net assets or a net worth of at least equal to the lesser of (1) the net assets or net worth of the Company at the time of such transaction or (2) 10% of the fair market value of the Leased Property at the time of such transfer, or (iii) such assignment is made with the written consent of the Issuer and the Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed. If an assignment is made to a person or entity that qualifies under clause (i) or (ii) of this Section 6.3(B), then, in such event, the Company, as transferor, shall be relieved from all further liability under this Lease from and after the effective date of such assignment and the transferee shall thereafter be the "Company" for all purposes hereunder. If a transfer is consented to by the Issuer and the Purchaser under clause (iii) of this Section 6.3(B), then, in such event, the transferee shall thereafter be the "Company" for all purposes, but the transferor

shall be relieved of all further liability under this Lease from and after the effective date of such transfer only to such extent as may be set forth in such consent. To the extent required by the Purchaser or Issuer, any assignee, lessee, sublessee or purchaser of all of the Company's interest in this Lease or of the Leased Property will assume in writing the obligations of the Company under this Lease. The foregoing shall not be construed to impose any restriction on the transfer of equity interests in the Company.

C. Assignment requirements for assignments pursuant to Section 6.3(B) hereof:

(i) The Company shall, not more than 60 nor less than 30 days before the effective date of any assignment, lease, sublease, pledge or sale described in Section 6.3(A), provide notice of the intended assignment to the Issuer and Purchaser and furnish or cause to be furnished to the Issuer and the Purchaser a true and complete copy of such proposed assignment, lease, sublease, pledge or purchase contract, and to the extent applicable, such assumption.

(ii) On or before the effective date of any such assignment, lease, sublease, pledge or sale, the Company shall pay the Issuer its reasonable costs incurred in connection with such assignment, lease, sublease, pledge or sale. This fee is independent from any additional legal costs incurred by the Issuer while assisting with the assignment, which are also the responsibility of the Company pursuant to Section 5.7(B) hereof.

(iii) On or before the effective date of any such assignment, lease, sublease, pledge or sale, the Company shall, at the expense of the Company, deliver to the Issuer and Purchaser an opinion of counsel to the Company (or such other counsel as agreed to by the Issuer and the Purchaser) in a form satisfactory to the Issuer and the Purchaser to the effect that such assignment, lease, sublease, pledge or sale has been duly authorized by the Company, that the Lease is a valid, binding obligation of the transferee, does not conflict with applicable federal or State law, and does not affect the status of the Project as a "project" under the Act.

VI.4. Company Financing Liens.

A. The Company may from time to time grant one or more Company Financing Liens. The Issuer shall reasonably cooperate (including but not limited to executing and delivering or joining in the execution and delivery of documents, including such subordination agreement, estoppel, non-disturbance agreement, recognition agreement or other instrument reasonably necessary for Company Financing (including the Form of Consent and Subordination Agreement attached hereto as Exhibit C)), at the expense of the Company, in connection with any such grant. In addition, the Issuer will grant such Company Financing Liens on its interest in the Leased Property and such other documentation as the Company may from time-to-time reasonably request, all at the Company's expense, and only so long as the such Company Financing Lien does not involve any pecuniary liability or obligation of the Issuer

except with respect to the Leased Property and the application of the revenues therefrom from the Company. The Issuer will also grant to the providers of the Company Financing such right to notice of and the right to cure any Default or Event of Default and issue to such provider or providers such estoppel certificate with respect to the Bond Documents as the Company or such provider may reasonably request, all at the Company's expense, and only so long as the same does not involve any pecuniary liability of the Issuer. Any Company Financing Lien shall by its terms be senior and superior to the interests of the Company hereunder and to the interests of the holders of the Bonds.

B. Notwithstanding anything contained herein, this Lease is subject and subordinate in all respects to any Company Financing Liens, to all other liens granted by the Company to the holder of a Company Financing Lien with respect to or in connection with the indebtedness secured by a Company Financing Lien, and to all modifications, extensions, refinancings (where such liens continue) or renewals of such lien; providing that nothing contained in this Section 6.4(B) shall be construed to diminish, in any manner, the obligations of the Company to pay the Rent, PILOTs, Additional Payments, or Community Benefits Obligations under this Lease.

VII. EVENTS OF DEFAULT AND REMEDIES

VII.1. Events of Default Defined.

Each of the following events is an “Event of Default”:

A. Failure by the Company to make any Rent payment when due, and such failure continues for a period of five (5) Business Days with respect to Basic Rent, or thirty (30) Business Days with respect to PILOT Payments, Community Benefits Obligations and Additional Payments after written notice from the Issuer or the Purchaser of such failure is provided to the Company.

B. Any Bond Document delivered by the Company, or any certificate or other document delivered pursuant to any Bond Document delivered to any of the other Parties in connection with the transactions contemplated by any Bond Document contains a material misrepresentation by the Company, and the Company fails to cure the effect of such misrepresentation within 30 days after such party gives the Company written notice of such misrepresentation or, if the effect of such misrepresentation cannot reasonably be cured within 30 days, failure by the Company to commence the remedy within such period and to pursue the same diligently to completion.

C. A decree or order for relief by a court of competent jurisdiction is entered against the Company in an involuntary case under any federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of

any such decree or order unstayed and in effect for a period of 60 consecutive days, or the commencement by the Company of a voluntary case under such law, or the consent by the Company either to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Company or for any substantial part of its property, or the making by it of any assignment for the benefit of creditors, or the taking of action by the Company to authorize or effect any of the foregoing.

D. Failure by the Company to perform any of its obligations under this Lease or the Indenture, other than the payment of Rent, PILOTs, Community Benefits Obligations or Additional Payments for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Company by the Issuer or the Purchaser, unless such failure cannot be remedied within 30 days and the Company has instituted corrective action within 30 days after such notice and diligently pursues such action until such failure is remedied.

VII.2. Remedies on Default.

If an Event of Default occurs and is continuing, the Purchaser, subject to the reserved Issuer remedial actions in Section 7.5 hereof, and only the Purchaser, as the assignee of the Issuer under the Indenture and on behalf of the Issuer, may, but is not required to, take any one or more of the following remedial steps:

A. By written notice to the Company declare all such amounts of Rent payable for the remainder of the Term as are required to provide for the Payment of the Bonds and all Additional Payments, Community Benefits Obligations and PILOT then owed to be immediately due and payable, whereupon the same will be immediately due and payable;

B. Take possession of the Leased Property without terminating this Lease and lease or sublease the Leased Property for the account of the Company, crediting against the Rent required to be paid by the Company the amounts received by the Purchaser for the account of the Issuer from any lease or sublessee; for the avoidance of doubt, only the Purchaser may take possession of the Leased Property, and in no event may the Issuer take possession of the Leased Property;

C. Terminate this Lease, hold the Company liable for all Rent due at the effective date of termination and due until the effective date of leasing the Leased Property to another, exclude the Company from possession of the Leased Property and lease or sublease the Leased Property to another; provided, however, that such termination and exclusion will not impair any remedy granted to the Issuer or the Purchaser under this Lease;

D. Take whatever action at law or in equity may appear necessary or desirable to collect the Rent then due and thereafter to become due or to enforce the performance and observance of any obligation of the Company under this Lease or the Indenture; or

E. Exercise any remedies provided for in the Indenture.

F. Purchaser and Company may setoff any immediately due Rent with amounts advanced by the Purchaser to the Company for the Project, as more particularly described in Section 5.3(C) herein.

In the enforcement of the remedies provided in this Section 7.2, the Purchaser, as the assignee of the Issuer and on behalf of the Issuer, will treat all expenses of enforcement, including, without limitation, legal, accounting and advertising fees, as Additional Payments then due and owing. As the assignee of the Issuer, the Purchaser has sole responsibility for the exercise of any remedies if an Event of Default occurs and is continuing, provided that the Issuer shall be under no obligation to exercise any remedies in the event the Purchaser fails to do so.

VII.3. Company to Give Notice of Default.

The Company will promptly give notice to the Purchaser and the Issuer of the occurrence of any Event of Default of which it has actual knowledge.

VII.4. Default by Issuer - Limited Liability.

Notwithstanding any provision or obligation to the contrary hereinbefore set forth, no provision of this Lease shall be construed so as to give rise to a pecuniary liability of the Issuer or to give rise to a charge upon the general credit or taxing powers of the Issuer. The liability of the Issuer hereunder shall be limited to its interest in this Lease, and all other related documents and collateral and the lien of any judgment shall be restricted thereto. In the performance of the agreements of the Issuer herein contained, any obligation it may incur for the payment of money shall not be a debt of the Issuer, nor shall the Issuer be liable on any obligation so incurred. The Issuer does not assume general liability for the repayment of the Bonds or for the costs, fees, penalties, taxes, interest, omissions, charges, insurance or any other payments recited herein, and shall be obligated to pay the same only out of the amounts payable by the Company hereunder. The Issuer shall not be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to the Company if a default shall occur hereunder.

VII.5. Issuer Remedial Action.

Notwithstanding any other provision of this Lease or the Indenture to the contrary, the Issuer will be entitled to cause the Company to perform the obligations of the Company under Sections 4.16, 4.20, 4.21, 4.22, 5.3(B)(ii), 5.3(B)(iii), 5.3(B)(iv), 5.6, 5.7, 5.8, 5.10, and 7.6, and any other provisions hereof which require payment, indemnification, reimbursement,

access to the Project, or notice explicitly to the Issuer or to obtain consent from the Issuer (the “Reserved Rights”) and take whatever action at law or in equity is necessary to enforce their performance. The Issuer’s rights to enforce the Reserved Rights are not assigned to the Purchaser under the Indenture. If the Company fails to comply with its obligations set forth in the Reserved Rights, with the exception of a failure to comply with the obligations set forth in Section 4.22 hereof, and such failure continues for and has not been cured within 30 days after the Issuer gives notice to the Company of such failure or any representation of the Company in any Bond Document or any document or agreement delivered to any of the other Parties in connection with the transaction contemplated by the Bond Documents proves to have been incorrect in any material respect when made, then, the Issuer shall have the right to immediately terminate this Lease and take all steps necessary to have the Leased Property immediately assessed for property tax purposes in the name of the Company, including without limitation, re-conveying the Leased Property to the Company in accordance with Article IX hereof and retaining a lien against and security interest in the Leased Property securing payments of all amounts owed to Issuer or to the School Districts under this Lease. If the nature of the Company’s failure to perform any of its obligations related to the Reserved Rights contained in the notice is such that it cannot be reasonably cured within such 30 day period, the Issuer shall not take action pursuant to this Section to terminate this Agreement so long as the Company has instituted corrective action within 30 days after such notice and diligently pursues such corrective action, in the sole judgement of the Issuer, until such failure is remedied. This remedy is not exclusive of any other action at law or in equity that the Issuer may take to enforce the Reserved Rights.

VII.6. Agreement to Pay Issuer Attorneys’ Expenses for Enforcement. If an Event of Default, or an event which with the giving of notice or the passage of time, or both, would constitute an Event of Default, occurs, and the Issuer incurs reasonable and documented expenses, including attorneys’ fees, in connection with the enforcement of this Agreement, the Company will reimburse the Issuer for such reasonable and documented expenses so incurred, upon demand as evidenced by written notice from the Issuer.

VIII.

PREPAYMENTS

VIII.1. Prepayments.

The Company may at any time (including after the occurrence and during the continuance of an Event of Default) and for any reason cause all or any portion of the Bonds to be redeemed in accordance with the provisions of the Indenture by giving notice of such redemption to the Issuer, the Depository and the Purchaser not less than 5 days before the redemption date. Upon the redemption of the Bonds in part, not less than \$25,000 in principal amount shall remain outstanding. Such notice will specify the redemption date and the principal amount of the Bonds to be redeemed. On the redemption date the Company will prepay the Rent in an amount equal to such principal amount to be redeemed plus accrued interest on such principal amount to the redemption date by payment of such amounts to the Purchaser, and will pay all outstanding Additional Payments, plus interest, if any, including the PILOT, currently

owed to the Issuer and/or the School Districts, and any outstanding Community Benefits Obligation.

IX. PURCHASE OF LEASED PROPERTY

IX.1. Purchase of Leased Property; Re-conveyance of Leased Property.

The Company will purchase, and the Issuer will sell, the Leased Property for \$1.00 at the expiration or early termination of this Lease or upon Payment of the Bonds, or a portion of the Leased Property prior to the expiration or early termination of this Lease with the Purchaser's prior approval. Except for those purchases resulting from the exercise by the Issuer of the remedies described in Section 7.5 hereof, the Company will give notice to the Issuer specifying the date of closing such purchase, which will be not less than fifteen (15) nor more than ninety (90) days from the date of such notice. In the event of a purchase resulting from the exercise by the Issuer of the remedies described in Section 7.5 hereof, the Issuer will give notice to the Company of the closing date of such purchases at least 60 days prior to such date. At the closing of such purchase, the Issuer will deliver to the Company or the Company's designee, at the Company's expense, a quitclaim deed, bill of sale or other appropriate documents conveying to the Company or the Company's designee title to the Leased Property to be conveyed pursuant to this Section 9.1, as the same exists at the time of such purchase, subject only to: (i) those liens and encumbrances, if any, to which the Leased Property was subject when conveyed to the Issuer; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform any of its obligations under this Lease; (iii) Permitted Liens other than the Indenture and this Lease; and (iv) any other lien arising as a matter of law. The Company may purchase the Leased Property whether or not a Default or an Event of Default has occurred and is continuing, so long as all Additional Payments, Community Benefits Obligations and/or PILOT due to the Issuer or the School Districts are paid on or before the purchase date. The Issuer may take any additional steps, at the expense of the Company, as it may consider necessary to ensure that the property has been transferred to the Company for tax purposes. If the Company fails to take all necessary action to have the Leased Property assessed for property tax purposes in the name of the Company at the expiration of the Term, the Issuer may execute, deliver and cause to be recorded, at the expense of the Company, a quitclaim deed and a bill of sale with respect to the Leased Property.

Issuer will use reasonable, good faith efforts to notify the Company prior to any insolvency hearing for Issuer.

IX.2. Escrow Account.

In order to initiate the provisions of this Article IX, the Company and the Issuer agree to establish an Escrow Account pursuant to the terms set forth in Article V of the Indenture.

X.

MISCELLANEOUS

X.1. Incorporation of Indenture Provisions.

The provisions of Sections 11.01, 11.02, 11.03, 11.05 and 11.06 of the Indenture are incorporated in this Lease.

X.2. Amendments.

This Lease may be amended only by an instrument executed by the Issuer and the Company and consented to by the Purchaser.

X.3. No Pecuniary Liability of Issuer.

To the fullest extent permitted by law, no agreements or provisions contained herein or in the Bond Documents nor any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with any property of the Company financed, directly or indirectly, out of the proceeds of the Bonds or the issuance, sale and delivery of the Bonds will give rise to any pecuniary liability of the Issuer, its officials, employees, agents or members of its Governing Body, or constitute a charge against the Issuer's general credit, or will obligate the Issuer financially in any way, except with respect to the revenues available hereunder or under the Indenture and pledged to the payment of the Bonds and its application as provided under the Indenture provided by the Company and pledged to the payment of the Bonds, and their application as provided in the Indenture. No failure of the Issuer to comply with any terms, covenants or agreements herein or in any document executed by the Issuer in connection with the Bonds will subject the Issuer, its officials, employees, agents or members of its Governing Body, to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the revenues available hereunder or under the Indenture provided by the Company and pledged to the payment of the Bonds and its application as provided under the Indenture. Notwithstanding any other provisions of this Lease, none of the provisions of this Lease will require the Issuer to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder unless it will first have been adequately indemnified to its reasonable satisfaction against the cost, expense or liability which might be incurred thereby. Nothing herein will preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition, covenant or agreement herein or in the Indenture; provided, that no costs, expenses or other monetary relief will be recoverable from the Issuer except as may be payable from the revenues available hereunder or under the Indenture and pledged to the payment of the Bonds.

X.4. Notices.

Any notice, demand, direction, request, consent, approval, report or other instrument authorized or required by this Agreement to be executed, given or filed will be in writing and

will be deemed to have been sufficiently given or filed for all purposes of this Agreement when delivered by hand delivery or by nationally recognized commercial courier service, or on the third Business Day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as follows:

If to the Issuer:	Doña Ana County, New Mexico 845 N. Motel Blvd. Las Cruces, New Mexico 88007 Attn: County Manager
If to the Company:	Yucca Growth Infrastructure, LLC 799 Broadway New York, NY 10003 Attention: Legal Department Email: legal@forgegrowthinfra.com
If to the Depositary:	BOKF, NA 100 Sun Avenue NE, Suite 500 Albuquerque, NM 87102 Attention: Corporate Trust Tel: (505) 222-8447 Email: abqct@bokf.com

Any party may, by notice to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent.

X.5. Binding Effect.

This Lease shall inure to the benefit of and shall be binding upon the Issuer, the Company, and their respective successors and assigns.

X.6. Survival.

Except for the obligations of the Company set forth in Section 5.10 and 3.2 hereof (other than payments due and owing at the time of termination or expiration of this Lease), all agreements, covenants, representations and indemnities and all other statements of the Issuer and the Company and their respective officers set forth in or made pursuant to this Lease will survive the termination or expiration of this Lease.

X.7. Severability.

If any section, paragraph, clause or provision of this Lease shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Lease. In case any covenant, stipulation, obligation or agreement of either party contained in this Lease is for any reason held to be in violation of law, then such covenant, stipulation, obligation or agreement will be deemed to be the covenant, stipulation, obligation or agreement of such party only to the extent permitted by law.

X.8. Beneficiaries.

Other than the Purchaser, nothing in this Lease expressed or implied is intended or is to be construed to confer upon any Person other than the parties hereto (and, (a) in the case of Section 5.7 of this Lease, the Indemnified Persons and (b) in the case of Section 5.10(B) hereof, the School Districts), any right, remedy or claim, legal or equitable.

X.9. Recording.

This Lease, the Indenture and every assignment and modification hereof, or an appropriate and sufficient memorandum thereof, shall be recorded in the office of the County Clerk of Doña Ana County, New Mexico. This Lease as originally executed or an appropriate and sufficient memorandum thereof shall be so recorded before the recordation of the Indenture.

The Issuer and the Company will, at the direction of the Purchaser and at the expense of the Company, take all actions that at the time are and from time to time may be reasonably necessary to perfect, preserve, protect and secure the interests of the Issuer and the Purchaser in and to the Rent and in the Leased Property or the Company in the Leased Property, including, without limitation, the filing of financing statements and continuation statements and the execution, acknowledgment, delivery, filing and recordation of any other necessary agreements and instruments as may reasonably be required in carrying out the intention of or facilitating the performance of this Lease. The Issuer will cooperate with the Company in all such matters.

X.10. No Waiver.

No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

X.11. Further Assurances.

Consistent with the terms and conditions hereof, each party will execute and deliver such agreements, instruments, certificates, and other documents and take such other

action as any other party hereto may reasonably require in order to carry out this Lease and the transactions contemplated hereby, including, but not limited to, any and all actions and agreements necessary to secure the tax exemptions described in N.M. Const., Article VIII, Section 3; NMSA 1978, Section 7-36-3 (2024) (including any successor statutes thereto); and Section 4.5 herein in the event of a future change in law.

X.12. Applicable Law.

This Lease will be governed by and construed in accordance with the laws of the State of New Mexico applicable to agreements made and to be performed in the State of New Mexico, without regard or effect given to conflict of laws or rules which would require the application of the laws or rules of any other jurisdiction.

X.13. Non-Merger.

The provisions of this Lease shall survive the conveyance of the Leased Property to the Issuer, the reconveyance of the Leased Property to the Company, and all other performances hereunder, and shall not be deemed merged in any deed, bill of sale, or other instrument or document delivered hereunder.

X.14. **Relationship.** The relationship of Issuer and Company under this Lease is that of landlord and tenant. Nothing in this Lease shall be construed as creating a partnership or joint venture between Issuer and Company.

X.15. Execution in Counterparts.

This Lease may be executed in any number of counterparts, each of which so executed and delivered will constitute an original and all together will constitute but one and the same instrument.

(Signature Pages Follow)

DOÑA ANA COUNTY, NEW MEXICO

By: _____
Chair of the Board of County
Commissioners

(SEAL)

Attest:

County Clerk

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

This instrument was acknowledged before me on _____, 2025, by Christopher Schaljo-Hernandez, Chair of the Board of County Commissioners of Doña Ana County, New Mexico.

Notary Public

My Commission expires:

YUCCA GROWTH INFRASTRUCTURE,
LLC

By: _____

Brannen McElmurray
Authorized Signatory

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2025, by Brannen McElmurray, Authorized Signatory of Yucca Growth Infrastructure, LLC, a Delaware limited liability company.

Notary Public

My Commission expires:

EXHIBIT A-1

DESCRIPTION OF PROJECT SITE

Parcel A-1:

A certain 121.16 acres parcel of land within Section 35, Township 28 South, Range 2 East, New Mexico Principal Meridian, Dona Ana County, New Mexico, and being more particularly described by metes and bounds as follows:

COMMENCING at a found U.S.G.L.O. brass cap marking the Section Corner common to Sections 26, 27, 34 & 35, Township 28 South, Range 2 East, WHENCE a found U.S.G.L.O. brass cap marking the Quarter Corner common to Sections 27 and 34, Township 28 South, Range 2 East bears, N 89° 44' 54" W, a distance of 2643.06 feet, said course is the basis of bearing for the parcel herein described;

THENCE, from the Point of Beginning and along the Section line common to Sections 26 and 35, Townships 28 South, Range 2 East, S 89° 48' 06" E, a distance of 438.75 feet to a 5/8" rebar with cap #5948 set marking a point on the west right of way line of a 50 foot wide gas easement;

THENCE, continuing along the west right of way line of a 50 foot wide gas easement, S 34° 51' 36" E, a distance of 4,690.46 feet to a 5/8" rebar with cap #5948 set marking the TRUE POINT OF BEGINNING of the parcel herein described;

THENCE, from the Point of Beginning and continuing along the west right of way line of a 50 foot wide gas easement, S 34° 51' 36" E, a distance of 1,751.18 feet to a 5/8" rebar with cap #5948 set marking the southeast corner of this parcel;

THENCE, leaving the west right of way line of a 50 foot wide gas easement and continuing along the common Section line of Sections 35 and 2, N 89° 51' 00" W, a distance of 1,548.62 feet to the found U.S.G.L.O. brass cap marking the Quarter Corner common to Sections 2 and 35, Township 28 & 29 South, Range 2 East, being an angle point of this parcel;

THENCE, continuing along the common Section line of Sections 35 and 2, N 89° 43' 41" W, a distance of 2,638.09 feet to the found U.S.G.L.O. brass cap marking the Section Corner common to Sections 34 and 35, Township 28 South, Range 2 East, and Sections 2 and 3, Township 29 South, Range 2 East, and being the southwest corner of the parcel herein described;

THENCE, leaving the Section line common to Sections 35 and 2, and continuing along the section line common to Sections 34 and 35, N 00° 43' 13" E, a distance of 1,435.51 feet to a 5/8" rebar with cap #5948 set marking the northwest corner of the parcel herein described;

THENCE, leaving the Section Line common to Sections 34 and 35, S 89° 43' 41" E, a distance of 3,167.74 feet to the Point of Beginning of the parcel herein described, said parcel containing 5,227,633 sq. ft. or 121.16 acres of land, MORE OR LESS.

Parcel A-2:

A certain 285.034 acres parcel of land within Section 6, Township 29 South, Range 3 East, New Mexico Principal Meridian, Dona Ana County, New Mexico, and being more particularly described by metes and bounds as follows:

BEGINNING at a found U.S.G.L.O. brass cap marking the Section Corner common to Sections 31 & 32, Township 28 South, Range 3 East, and Sections 5 and 6, Township 29 South, Range 3 East, WHENCE a found U.S.G.L.O. brass cap marking the Quarter Corner on the Township Line common to Sections 5 and 32, Township 28 & 29 South, Range 3 East bears, S 89° 45' 38" E, a distance of 2641.39 feet, said course is the basis of bearing for the parcel herein described;

THENCE, from the Point of Beginning, and leaving the township line of Sections 31 and 6 Township 28 & 29 South, Range 3 East, and continuing along the section line common to Sections 5 and 6, Township 29, South, Range 3 East S 00° 47' 15" E, a distance of 3,156.84 feet to a 5/8" rebar with cap #5948 set marking a point on the parcel of land owned by El Paso Electric Company being Dona Ana County ID 17-19396, and angle point of the parcel herein described;

THENCE, continuing along the El Paso Electric Company parcel, N 76° 53' 46" W, a distance of 146.61 feet to a found rebar marking an angle point of the parcel herein described;

THENCE, S 13° 06' 14" W, a distance of 321.21 feet to a found rebar marking an angle point of the parcel herein described;

THENCE, leaving the El Paso Electric Company parcel, N 76° 53' 19" W, a distance of 3,152.87 feet to a 5/8" rebar with cap #5948 marking a point on the east right of way line of the Pete V. Domenici Highway and southwest corner of this parcel;

THENCE continuing along the east right of way line of the Pete V. Domenici Highway, N 00° 13' 02" E, a distance of 93.88 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;

THENCE continuing along the east right of way line of the Pete V. Domenici Highway, N 00° 12' 49" E, a distance of 958.61 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;

THENCE, N 89° 44' 00" E, a distance of 35.00 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;

THENCE, N 00° 12' 49" E, a distance of 600.00 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;

THENCE, S 89° 42' 58" E, a distance of 65.00 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;
THENCE, N 00° 12' 49" E, a distance of 500.00 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;
THENCE, N 89° 49' 57" W, a distance of 65.00 feet to an aluminum cap marked "NMDOT" found at an angle point of the parcel herein described;
THENCE, N 00° 12' 49" E, a distance of 580.61 feet to an aluminum cap marked "NMDOT" found at the township line common to Sections 31 and 6 Township 28 & 29 South, Range 3 East;
THENCE continuing along the east right of way line of the Pete V. Domenici Highway, N 00° 59' 28" E, a distance of 565.52 feet to a 5/8" rebar with cap #5948 set on the south right of way line of the abandoned railroad and northwest corner of the parcel herein described;
THENCE, leaving the east right of way line of the Pete V. Domenici Highway and continuing along the south right of way line of the abandoned railroad, N 83° 08' 41" E, a distance of 3,197.61 feet to a 5/8" rebar with cap #5948 set marking the northeast corner of the parcel herein described;
THENCE, leaving the south right of way line of the abandoned railroad, S 00° 47' 15" E, a distance of 959.38 feet to the Point of Beginning of the parcel herein described, said parcel containing 12,416,066 sq. ft. or 285.034 acres of land, MORE OR LESS.

EXHIBIT A-2

PROJECT SITE EASEMENTS

A 100.0 Foot Ingress-Egress and Utility Easement, situate within Sections 31, 32 & 33, Township 28 South, Range 3 East, New Mexico Principal Meridian, Dona Ana County, New Mexico, and being more particularly described by metes and bounds as follows:

Commencing at a found U.S.G.L.O. Brass Cap marking Section Corner to Section 31 and 32, Township 28 South, Range 3 East, and Sections 5 & 6, Township 29 South, Range 3 East, Whence a found U.S.G.L.O. Brass Cap marking the quarter Section Corner common to Section 32, Township 28 South, Range 3 East, and Section 5, Township 29 South, Range 3 East bears, S 89-45'-38" E, a distance of 2641.39 feet; said course is the basis of bearing for the Easement herein described;

THENCE, from the commencing point, and along Section line common to Sections 31, and 32, N 0°-10'-49" E, a distance of 1215.97 feet to a set 5/8 inch rebar with Cap No. 5948, marking the "TRUE POINT OF BEGINNING" of the Easement herein described. Said Point being on the South boundary line of the Easement herein described, also being the South boundary line of the abandoned Southern Pacific Railroad Right-of-Way;

THENCE, along the abandoned Southern Pacific Railroad, S 83°-08'-41" W, a distance of 5282.51 feet, to a found 5/8" rebar with Cap No, 5948, marking a point on the East Right-of-Way line of the Pete. V. Domenici International Highway;

THENCE, along the East Right-of-Way of the Pete Domenici International Highway, N 0°14'-27" E, a distance of 103.11 feet to a set 5/8" rebar with Cap No. 5948, marking the Point of Intersection of the Pete V. Domenici International Highway, and the centerline of the Southern Pacific abandoned Railroad;

THENCE, along the centerline of the Southern Pacific abandoned Railroad, and the North boundary line of herein described 100.0 Foot Easement, N 83-08'-40" E, a distance of 5268.79 feet to a set 5/8 inch rebar with yellow Cap No. 5948, being an angle point;

THENCE, N 83°-10'-53" E, a distance of 3424.41 feet to a set 5/8" rebar with Cap No. 5948 marking a point of curve;

THENCE, continuing 1908.16 feet along the arc of a curve to the right , having a radius of 5677.18 feet, a Delta of 19°-15'-27", and a chord that bears S 87°-11'-30" E, a distance of 1899.91 feet, to a set 5/8" rebar with cap No.5948, marking a point on curve, being the point of Intersection of the North boundary line of the Easement herein described, and the Section line common to Sections 32 and 33, Township 28 South, Range 3 East;

THENCE, continuing 184.45 feet along the arc of a curve, bearing to the right, having a radius of 5677.18 feet, a Delta of 1°-28'-24", and a chord that bears S 76°-36'-39", E a distance of 184.44 feet, to a set 5/8" rebar with yellow cap No. 5948, marking a point of tangency;

THENCE, continuing S 75°-42'-03" E, 1088.91 feet to a set 5/8" rebar with cap No. 5948, marking an angle point on the North boundary of the Easement herein described;

THENCE, leaving the North boundary S 0°-14'-27" W, 103.09 feet to a found 5/8" rebar with cap No. 5948, marking a point on the South boundary line of the Easement herein described;

THENCE, along the South boundary of the Easement herein described, also being the South Right-of-Way line of the Southern Pacific Abandoned Railroad, N 75°-41'-59" W a distance of 1113.95 feet to a set 5/8 inch rebar with cap No. 5948, marking a point of curve;

THENCE, 159.49 feet along the arc of a curve bearing to the left, having a radius of 5577.05 feet, a delta of 10°-38'-18", and a chord that bears, N 76°-31'-13" W, a distance of 159.48 feet to a found 5/8 inch rebar with cap No. 5948, marking the intersection point of the South boundary of the Easement herein described with the Section line common to Sections 32 and 33, Whence, a found USGLO Brass Cap marking the Sections corners common to Sections 32 and 33, Township 28 South, Range 3 East, and Sections 4 and 5, Township 29 South, Range 3 East, bears, S 0°-17'-09" W, a distance of 1552.66 feet;

THENCE, 1896.95 feet along the arc of a curve bearing to the left, having a radius of 5577.05, a Delta of 19°-29'-17", and a chord that bears, N 87°-04'-45" W, a distance of 1886.98 feet to a found 5/8 inch rebar with cap No. 5948 marking a point of tangency on the Easement herein described;

THENCE, S 83°-11'-15" W, a distance of 3424.35 feet to the "TRUE POINT OF BEGINNING" of the Easement here in described, and containing 11,884.22 square feet or 27.28 acres More or Less.

AND

A 60.0 foot Ingress-Egress and Utility Easement, situate within Section 35, Township 28 South, Range 2, New Mexico Principal Meridan, Dona Ana County, New Mexico, and being more particularly described by metes and bounds as follows:

Commencing at a found U.S.G.L.O. Brass Cap marking the Section corner common to Sections 26, 27, 34 & 35, Township 28 South, Range 2 East, Whence a found U.S.G.L.O. brass cap marking the quarter corner common to Sections 27 and 34, Township 28 South, Range 2 East bears, N 89°-44'-54" W, a distance of 2643.06 feet, said course is the basis of bearing for the easement herein described;

THENCE, from the commencing point and along the Section line common to Sections 26 and 35, Township 28 South, Range 2 East, S 89°-47'-25" E, a distance of 438.75 feet to a set 5/8" rebar with cap No. 5948, marking a point on the West Right-of-Way of a 50.0 Gas Easement;

THENCE, continuing along the West Right-of-Way line of the 50 foot wide Gas Easement, S 34°-51'-36" E, a distance of 4690.46 feet to a set 5/8" rebar with cap No. 5948, marking the TRUE POINT OF BEGINNING, and Northeast corner of the easement herein described;

THENCE, crossing the 50.0 foot Gas Easement, and the 200 foot El Paso Electric Easement, N 55°-08'-24" E, a distance of 310.00 feet to a set 5/8" rebar with cap No. 5948, marking the Northeast corner of the Easement herein described;

THENCE, parallel to the East Right-of-Way line of the El Paso Electric Easement, S 34°-51'-36" E, a distance of 1941.71 feet to a set 5/8" with cap No. 5948, marking the Southeast corner of the Easement herein described, also being a point on the North Right-of-way line of New Mexico Highway 9;

THENCE, continuing along the North Right-of-Way line of New Mexico Highway 9, S 83°-10'-40" W, a distance of 67.97 feet to a set 5/8 inch rebar with Cap No. 5948, marking the point of intersection of the North Right-of-Way line of New Mexico Highway 9, and the East Right-of-Way line, the El Paso Electric Easement;

THENCE, along the East Right-of-Way line of the El Paso Electric Easement, N 34°-51'-36" W, a distance of 1849.76 feet to a set 5/8" rebar with cap No. 5948, marking an angle point;

THENCE, crossing the El Paso Electric Co. Easement, and the 50.0 foot Gas Company Easement, S 55°-08'-25" W, 250.00 feet to a set 5/8 inch rebar with yellow Cap No. 5948;

THENCE, along the West Right-of-Way line of the 50.0 foot Gas Easement, N 34°-51'-36" W, a distance of 60.0 feet to the "TRUE POINT OF BEGINNING" of the Easement herein described, containing 130,603 Square Feet or 2.99 acres "MORE OR LESS"

AND

The easements generally described and delineated in black in the below map:

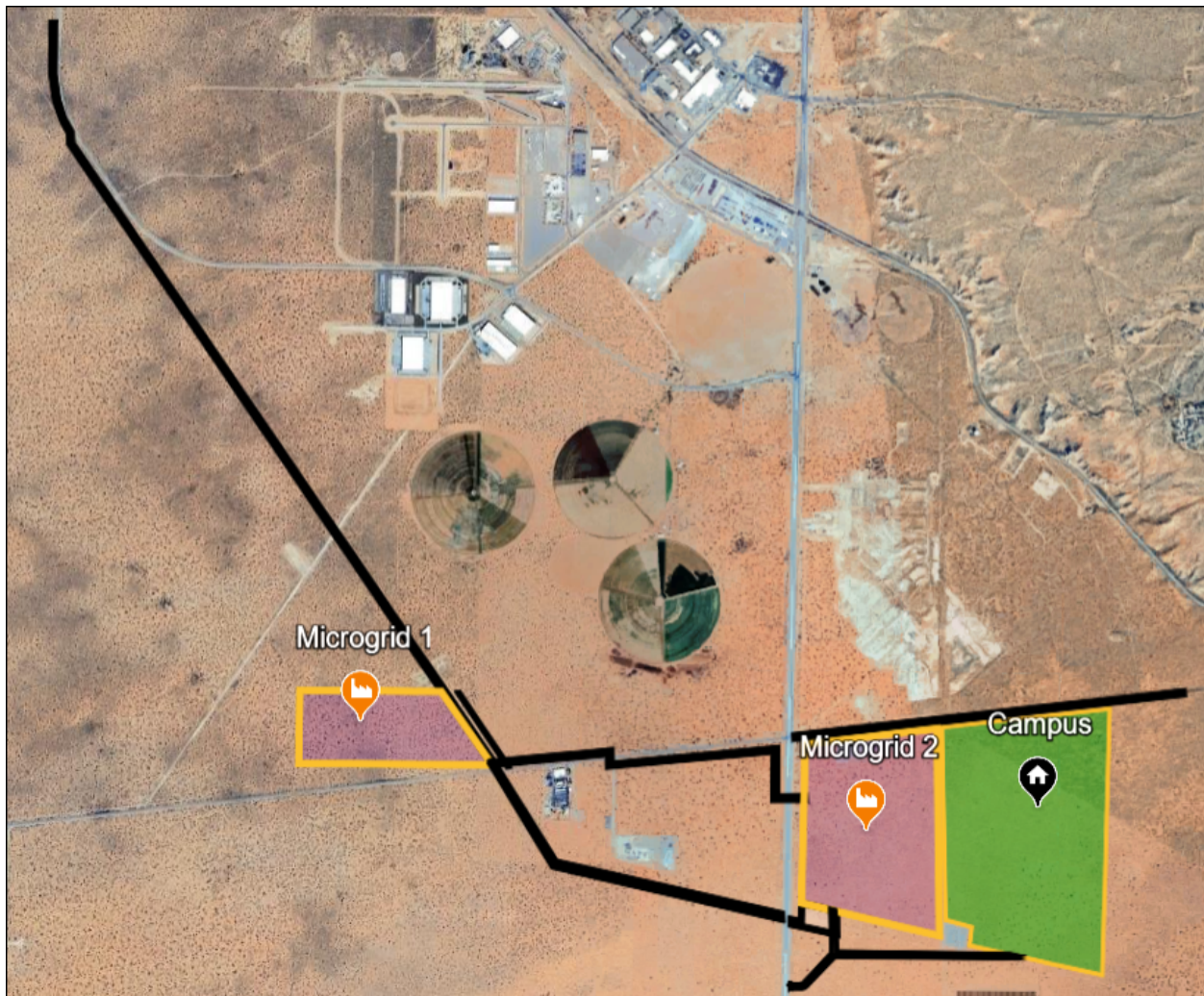


EXHIBIT B

PILOT CHART

<u>Date</u>	<u>County</u>	<u>Gadsden SD</u>	<u>Las Cruces SD</u>	<u>Hatch SD</u>	<u>Total</u>
12/31/26	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/27	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/28	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/29	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/30	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/31	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/32	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/33	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/34	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/35	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/36	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/37	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/38	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/39	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/40	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/41	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/42	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/43	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/44	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/45	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/46	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/47	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/48	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/49	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00

12/31/50	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/51	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/52	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/53	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
12/31/54	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00
9/30/55	\$1,793,158.60	\$820,546.71	\$240,018.26	\$146,276.43	\$3,000,000.00

EXHIBIT C

FORM OF CONSENT AND SUBORDINATION AGREEMENT

This CONSENT AND SUBORDINATION AGREEMENT (this “Consent”), dated as of ____ __, 2025 among Doña Ana County, New Mexico a political subdivision of the State of New Mexico (the “Consenting Party”), Yucca Growth Infrastructure, LLC, a Delaware limited liability company (the “Borrower”), and [Goldman Sachs Bank USA] (together with its successors in such capacity, the “Lender”) in its capacity as Lender under the Financing Agreement (as defined below).

RECITALS

WHEREAS, the Borrower intends to construct, acquire, equip and install certain of certain power generation, battery storage, a microgrid and related infrastructure, facilities and real property located within Doña Ana County, New Mexico;

WHEREAS, the Consenting Party and the Borrower have entered into that certain Lease Agreement, dated as of October 1, 2025 (as amended, restated, modified or otherwise supplemented from time to time in accordance with the terms hereof, the (“Assigned Agreement”)).

WHEREAS, the Borrower has entered into that certain [Credit Agreement, dated as of _____ __, 2025 (as amended, restated, modified or otherwise supplemented from time to time, the “Financing Agreement”), by and among the Borrower, _____ and Lender pursuant to which, among other things, the Lender will make loans [and other extensions of credit] for the benefit of the Borrower (the “Loans”);

WHEREAS, pursuant to the Indenture among the Consenting Party, Borrower and Yucca Growth Infrastructure Purchaser, LLC, (the “Bond Purchaser”) and the Depositary dated as of October 1, 2025 (the “Bond Indenture”), the Consenting Party issued its Taxable Industrial Revenue Bonds (Project Jupiter) Series 2025A Bonds (the “Bonds”). In the Bond Indenture the Consenting Party granted to the Bond Purchaser liens on and security interests in: (i) all of the Consenting Party’s right, title and interest in the Assigned Agreement, but reserving the rights of the Consenting Party under the Assigned Agreement to receive indemnification, certain payments and reimbursement for reasonable and documented costs and expenses and to give consents; (ii) pending their use for the Cost of the Project (as defined in the Lease), the moneys and investments in the Acquisition Account (defined in the Bond Indenture) (items (i) through (ii), collectively, whether now owned or hereafter acquired, the “Bond Mortgaged Property”);

WHEREAS, as security for the Loans and all other obligations under the Financing Agreement and related financing documents, the Borrower has granted a collaterally assigned all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Lender pursuant to the [Leasehold Deed of Trust with Assignment of

Rents, Security Agreement and Fixture Filing, dated as of October __, 2025, between the Borrower and the Lender (as amended, restated, modified or otherwise supplemented from time to time, the “Security Agreement”);

WHEREAS, pursuant to the terms of the Assigned Agreement, Borrower may assign its rights under the Assigned Agreement;

WHEREAS, the Consenting Party is providing this Consent to provide certain information about the Assigned Agreement and to confirm, subject to the terms of this Consent, the subordination of all of its right, title and interest in and to the Project, the Leased Property and the other Bond Mortgaged Property (including the liens and security interests granted by it in and on the Bond Mortgaged Property (whether now owned or hereafter acquired) to all rights and interest of the Secured Parties in and to (including the liens and security interests granted in and on) the Project, the Leased Property and the other Bond Mortgaged Property (whether now owned or hereafter acquired) as provided in the Financing Agreement and the related financing documents; and

WHEREAS, it is a requirement under the Financing Agreement that the Borrower and the Consenting Party execute and deliver this Consent.

NOW, THEREFORE, as an accommodation to the Lender to make the Loans, and in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1) CONSENT TO ASSIGNMENT, ETC.

- a) Consent to Assignment. The Consenting Party (i) acknowledges that the Lender is entering into the Financing Agreement and the Lender is making the Loans in reliance upon the execution and delivery by the Consenting Party of this Consent, (ii) consents in all respects to the pledge and assignment to Lender of all of the Borrower's right, title and interest in, to and under the Assigned Agreement pursuant to the Security Agreement and the other related financing documents and (iii) acknowledges the right, but not the obligation, of Lender or Lender's designee, in the exercise of Lender's rights and remedies under the Security Agreement, to make all demands, give all notices, take all actions and exercise all rights of the Borrower in accordance with the Assigned Agreement, and agrees that in such event the Consenting Party shall continue to perform its obligations under the Assigned Agreement.
- b) Substitute Owner. The Consenting Party agrees that, in the event of the foreclosure upon the rights of the Borrower in the Assigned Agreement (or acceptance of a deed in lieu of foreclosure), the Assigned Agreement shall remain in full force and effect, and the purchaser at foreclosure (the "Substitute Owner") shall succeed to all of the rights and obligations of the Borrower under the Assigned Agreement without consent of any person. In such event and upon the curing of any Assigned Agreement Defaults (as defined herein) of the Borrower that are curable by the Substitute Owner, the Consenting Party will continue to perform its obligations under the Assigned Agreement in favor of the Substitute Owner.

- c) Right to Cure. (i) The Lender or Lender's designee shall have the right, but not the obligation, at any time to perform any act necessary to cure any default under the Assigned Agreement ("Assigned Agreement Default") and to prevent the termination of the Assigned Agreement. The Consenting Party will not terminate or suspend its performance under the Assigned Agreement until it first gives written notice of such Assigned Agreement Default to Lender and allows Lender or Lender's designee the right to cure such Assigned Agreement Default within the applicable cure period under the Assigned Agreement. In addition, if Lender or Lender's designee gives the Consenting Party written notice prior to the expiration of the applicable cure period of such Lender's or Lender's designee's intention to cure such Assigned Agreement Default (which notice shall include a reasonable description of the time during which it anticipates to cure such default) and is diligently proceeding to cure such Assigned Agreement Default, notwithstanding the applicable cure period under the Assigned Agreement, the Lender or Lender's designee shall have a period of ninety (90) days (or if such Assigned Agreement Default is for failure by the Borrower to pay an amount to the Consenting Party which is due and payable under the Assigned Agreement, sixty (60) days) from the Lender's or Lender's designee's receipt of the notice of such Assigned Agreement Default from the Consenting Party, to cure such Assigned Agreement Default. If the Assigned Agreement Default is not cured within the periods specified above by the Lender or the Lender's designee, the Consenting Party may terminate or suspend its performance under the Assigned Agreement.
- i) If any Assigned Agreement Default by the Borrower cannot be cured without obtaining possession of all or part of the Leased Property, then any such Assigned Agreement Default shall be deemed remedied if Lender or Lender's designee (a) in the time periods provided in Section 7.1 of the Assigned Agreement begins appropriate judicial or non-judicial proceedings to obtain the same; (b) diligently prosecutes any such proceedings to completion; and (c) after gaining possession of all or part of the Leased Property, diligently proceeds to cure and perform all other obligations as and when the same are due in accordance with the terms of the Assigned Agreement. If Lender or Lender's designee is prohibited by any Court or by operation of any bankruptcy or insolvency laws from commencing or prosecuting the proceedings described above, the period specified above for commencing proceedings shall be extended for the period of such prohibition.

- ii) If the Lender, Lender's designee (or a receiver requested by Lender) succeeds to the interest of the Borrower in the Leased Property, the Lender, Lender's designee or Lenders shall pay or cause to be paid the Rent, PILOT, Additional Payments (as such terms are defined in the Assigned Agreement) and all other monetary charges payable by the Borrower under the Assigned Agreement from the date on which the Lender, Lender's designee or Lenders (or a receiver requested by Lender) succeeds to such interest and those which accrue thereafter during the term of the Assigned Agreement. No cancellation, suspension or termination of the Assigned Agreement by the Consenting Party shall be binding upon Lender without the notice and extended cure period specified in this Section 1(c). Any dispute that may arise under the Assigned Agreement notwithstanding, the Consenting Party shall continue performance under the Assigned Agreement and resolve any dispute without discontinuing such performance until the lapse of the notice and extended cure period specified in this Section 1(c).
- b) No Termination, Assignment or Material Amendments. No termination, cancellation, surrender, amendment, modification or supplement of the Assigned Agreement or the Bond Indenture by the Borrower, nor the waiver by the Borrower of any of the provisions of the Assigned Agreement or the Bond Indenture nor the giving by the Borrower of any consent, will be effective as to the Lender or the Lender's designee unless consented to in writing by the Lender. The Consenting Party shall not, without the prior written consent of the Lender, assign or otherwise transfer any of its right, title and interest under the Assigned Agreement or the Bond Indenture, or consent to any such assignment or transfer by the Borrower. The Consenting Party shall not, without the prior written consent of the Lender, enter into any material amendment, supplement or modification of the Assigned Agreement or the Bond Indenture.

- c) No Liability. The Consenting Party acknowledges and agrees that none of Lender, or the Lender's designee shall have any obligation or liability under the Assigned Agreement prior to the time the Lender, Lender's designee or the Lender becomes a Substitute Owner. Lender or the Lender's designee shall be liable to perform obligations under the Assigned Agreement only for and during any period in which Lender or the Lender's designee is a Substitute Owner pursuant to Section 1(b); provided, however, that such liability shall not include any liability for claims of the Consenting Party against the Borrower arising from the Borrower's failure to perform during the period prior to such Lender, Lender's designee or the Lender becoming a Substitute Owner. Notwithstanding any other provisions in the Assigned Agreement to the contrary, except as otherwise set forth in the immediately preceding sentence, none of Lender or the Lender's designee shall be liable for the performance or observance of any of the obligations or duties of the Borrower under the Assigned Agreement and the collateral assignment of the Assigned Agreement by the Borrower to Lender shall not give rise to any duties or obligations whatsoever on the part of Lender, Lender's designee or the Lenders owing to the Consenting Party. In the event that Lender or the Lender's designee is liable under the Assigned Agreement, liability in respect of any and all obligations of any such party under the Assigned Agreement shall be limited solely to such party's interest in the Project (and no officer, director, employee, shareholder or agent thereof shall have any liability with respect thereto).
- d) Delivery of Notices. The Consenting Party, upon providing the Borrower any notice of (i) default under the Assigned Agreement or the Bond Indenture or (ii) a matter on which the Consenting Party may predicate or claim a default under the Assigned Agreement or the Bond Indenture, will at the same time provide a copy of such notice to the Lender. The Consenting Party will have no liability for the failure to give any such notice, except that no such notice by the Consenting Party to Borrower will be deemed to have been duly given to the Lender, Lender's designee or Lenders unless and until a copy thereof has been so provided to the Lender or Lender's designee or Lenders.

2) CONFIRMATION OF SUBORDINATION.

The parties hereby agree the Financing Agreement shall constitute a Company Financing (as defined in the Assigned Agreement). All of the Consenting Party's right, title and interest in and to the Project, the Leased Property and the other Bond Mortgaged Property (whether now owned or hereafter acquired) is subordinated to the right, title and interest of the Lender in and to (including the liens and security interests granted in and on) the Bond Mortgaged Property created to secure the obligations under the Financing Agreement, and the other related financing documents and to all renewals, modifications, consolidations, replacements and extensions of the Loans and the Financing Agreement, and the other related financing documents; provided, however: (a) that this sentence will not prohibit Consenting Party from exercising Consenting Party's rights under Section 1(c) above and shall not subordinate the Consenting Party's rights to receiving payments under Section 5.7 (to receive indemnification), Section 5.3B (to receive

Additional Payments) and Section 5.10 (to receive payments in lieu of tax) of the Assigned Agreement and to give any consents to which Consenting Party is entitled to give under the Assigned Agreement and the Bond Indenture except that (i) to the extent the Consenting Party takes or is granted any lien, such lien or security interest will at all times be junior and subordinate in all respect to the liens and security interests of the Lender under the Financing Agreement and the related financing documents; (ii) Consenting Party shall not take, hold or control any proceeds of the Leased Property in connection with any exercise of its rights and remedies relating to any such lien or security interest under the Assigned Agreement whether or not any insolvency or bankruptcy proceeding has been commenced by or against the Borrower; (iii) if any proceeds described in the immediately preceding clause (ii) are obtained by Consenting Party, Consenting Party shall promptly pay over such proceeds to the Lender in the same form as received with any necessary endorsements and until such payment to the Lender is made, will segregate and hold such proceeds for the benefit of the Lender; and (iv) without limiting the Consenting Party's rights as a subordinate creditor, the Lender shall have the exclusive right to take any action or exercise any remedies in respect of the Bond Mortgaged Property without consultation with or the consent of the Consenting Party or any other lien holder. The Consenting Party: (A) will not (and hereby waives any right to) directly or indirectly contest or support any other person in contesting in any proceeding (including any insolvency or bankruptcy proceeding) the priority, validity, or enforceability of any lien held by or on behalf of the Lender for the benefit of the Secured Parties in the Bond Mortgaged Property or the provisions of this Consent; (B) will not contest, protest or object to the exercise by the Lender of any right or remedy upon or any action taken with respect of the Bond Mortgaged Property and (C) will not object to (and waives any and all claims with respect to) the forbearance by the Lender from exercising any of its rights and remedies with respect of the Bond Mortgaged Property.

3) REPRESENTATIONS AND WARRANTIES OF THE CONSENTING PARTY

The Consenting Party makes the following representations and warranties as of the date hereof, which shall survive the execution and delivery of this Consent and the Assigned Agreement and the consummation of the transactions contemplated hereby and thereby.

- a) Organization; Power and Authority. The Consenting Party is a political subdivision of the State of New Mexico, and has all requisite power and authority to enter into and to perform its obligations under this Consent and the Assigned Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.
- b) Authorization. The execution, delivery and performance by the Consenting Party of this Consent, the Bond Indenture and the Assigned Agreement have been duly authorized and do not require any approval or consent of (i) any holder (or any trustee for any holder) of any indebtedness or other obligation of the Consenting Party or (ii) any other person or entity, except approvals or consents which have previously been obtained.
- c) No Previous Assignments; Other Agreements. The Consenting Party has not consented to any previous assignment or subordination of all or any part of its right, title or interest in, to or under the Assigned Agreement, the Bond Indenture or the Bond Mortgaged Property.
- d) Status of Documents. Each of the Assigned Agreement and the Bond Indenture is in full force and effect and has not been amended and there are no defaults, events of default or, to the knowledge of the Consenting Party, events which with the passage of time or the giving of notice would constitute a default or event of default under the Assigned Agreement and the Bond Indenture.
- e) Representations and Warranties. All representations, warranties and other statements made by the Consenting Party in the Assigned Agreement and the Bond Indenture were true and correct as of the date when made and are true and correct as of the date of this Consent.

2) MISCELLANEOUS

- a) Applicable Law; Submission to Jurisdiction. (i) THIS CONSENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW MEXICO, UNITED STATES OF AMERICA, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.
- b) Notices. All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the party or parties to whom such notice is addressed, shall be sent by first class mail, by personal delivery, by a nationally recognized courier service or by facsimile (subject to electronic confirmation), and shall be directed as follows:

If to the Consenting Party: Doña Ana County, New Mexico
845 N. Motel Blvd.
Las Cruces, New Mexico 88007
Attn: County Manager

If to the Borrower: Yucca Growth Infrastructure, LLC
600 Congress Ave., Suite 15041
Austin, TX 78701

If to the Lender: [Goldman Sachs Bank USA]
[200 West Street]
[New York, NY 10282]

The above parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

- c) Amendment, Waiver. Neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the Consenting Party and Lender.
- d) No Waiver; Remedies Cumulative. The waiver of any right, breach or default under this Consent by any party must be made specifically and in writing. No failure or delay on the part of Lender or Consenting Party in exercising any right, power or privilege hereunder and no course of dealing between the Consenting Party and Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other exercise, or the further exercise, of any other right, power or privilege hereunder. No notice to or demand upon any party will entitle such party to any further, subsequent or other notice or demand in similar or any other circumstances. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies that Lender or Consenting Party would otherwise have.
- e) Counterparts. This Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.
- f) Headings Descriptive. The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.
- g) Severability. In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.
- h) Successors and Assigns. This Consent shall be binding upon the parties hereto and their permitted successors and assigns and shall inure to the benefit of the parties, their designees and their respective permitted successors and assigns; provided, however, that no party or its respective successor or assign shall assign any of its interest in this Consent except in connection with an assignment of its interests in the Assigned Agreement and the Bond Indenture and then only to the same person(s) or entity (its) to which its interest in the Assigned Agreement or the Bond Indenture is so assigned.
- i) Survival. All agreements, statements, representations and warranties made by the Consenting Party herein shall be considered to have been relied upon by Lender and the Lenders and shall survive the execution and delivery of this Consent.
- j) Further Assurances. The parties hereto hereby agree to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

k) Termination.

i) Each party's obligations hereunder are absolute and unconditional, and no party has the right to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until all Loans and all other obligations under the Financing Agreement have been indefeasibly satisfied in full, notice of which will be provided by Lender when such obligations have been satisfied (the "Termination Notice").

ii) In the event that the Loans are refinanced or replaced by other credit facilities, this Consent and Agreement will continue in effect for the benefit of Consenting Party, Borrower, the Counterparties and the providers of such new credit facilities (the "New Lender"); provided, that (A) within five (5) days following delivery by Lender to Consenting Party of a Termination Notice, the New Lender or an agent, trustee or other representative of the New Lender, will notify Consenting Party that it assumes the rights and prospective obligations of Lender under this Consent, and will supply substitute notice address information for Section 4(c) and (B) thereafter, (1) the term "Loans" under this Consent will be deemed to refer to the new credit facilities, (2) the term "Lender" or "Lenders" will be deemed to refer to the New Lender or any agent or trustee of the New Lender, (3) the term "Financing Agreement" will be deemed to refer to the financing agreement, indenture or other instrument providing for the new credit facilities and (4) the term "Security Agreement" will be deemed to refer to the security agreement under which the Assigned Agreement is assigned as collateral to secure performance of the obligations of Borrower under the new credit facilities.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Consenting Party, the Borrower and Lender have caused this Consent to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

Doña Ana County, New Mexico, as Consenting
Party

By: _____
Name:
Title:

Yucca Growth Infrastructure, LLC
as Borrower

By _____
Name:
Title:

[Goldman Sachs Bank USA],
as Lender

By: _____
Name:
Title: