

GRANT OF EASEMENT

THIS GRANT OF EASEMENT (this "Easement") is made this _____ of June, 2020, by and between Clinton Township, Wayne County, Pennsylvania ("Grantor"), and Waymart Wind Farm LLC, a Delaware limited liability company and having an address of 132 N. York St., Suite 3L, Elmhurst, IL 60126 ("Grantee").

RECITALS:

A. Grantor has an interest in that certain land located in the Township of Clinton, County of Wayne and Commonwealth of Pennsylvania described more particularly on Exhibit A attached hereto and made a part hereof ("Grantor's Property").

B. Grantor desires to grant to Grantee, and Grantee desires to receive from Grantor, a right of way easement for the installation, use, operation and maintenance of electrical and communications facilities, as more fully described herein below, in, upon, under, over, across and along the Right of Way Easement Area (defined below), all as more particularly described herein.

NOW, THEREFORE, in consideration of \$1.00 (ONE DOLLAR 00/100) the good and valuable consideration as set forth herein, the receipt and sufficiency of which are hereby expressly acknowledged, and intending to be legally bound hereby, the Grantor and Grantee hereby agree as follows:

1. Establishment of Easement Area. From and after the date hereof, Grantee shall be permitted to construct certain Facilities (defined below) on Grantor's Property. Grantee shall provide drawings depicting the approximate proposed location of the Facilities no later than thirty (30) days prior to construction of the applicable Facilities. Grantee shall take commercially reasonable efforts to adjust or alter the design or routing of the Facilities in response to reasonable comments made in writing by Grantor to such proposed routing, provided that such comments are received by Grantee within fifteen (15) days after delivery of the proposed design to Grantor. After completion of construction of said Facilities, the "Easement Area" shall be defined as that portion of Grantor's Property extending 16.5 (16.5) feet from the centerline of any installed Facilities. Upon written request of Grantor, Grantee shall prepare an amendment to this Easement to legally describe the Easement Area.

2. Easement Term. The Easement Term shall consist of the Development Term and the Operations Term as follows:

(a) Development Term. The Development Term of this Easement will commence on the Effective Date and will end on the day preceding the second (2nd) anniversary of the Effective Date ("Development Term"), unless sooner terminated as provided herein. Grantee may extend the Development Term by an additional two (2) years upon written notice to Grantor.

(b) Operations Term. The Operations Term will commence on the date significant Construction Activities begin related to the installation of the Facilities on Grantor's Property, and be perpetual. For purposes of this Easement, "significant" Construction Activities shall mean the beginning of any excavation on the Easement Area or delivery or installation of any equipment, but shall not mean preliminary testing, staking or preparatory work.

(c) Grantee's Right to Terminate. The foregoing notwithstanding, Grantee will have the right to terminate this Easement as to all or any part of the Easement Area, at any time and from time to time, upon thirty (30) days prior notice to Grantor. In the event Grantee elects to terminate the Easement in its entirety or as to any portion of the Easement Area, or the Term expires, Grantee shall execute and deliver a partial release or termination of easement, as the case may be, in recordable form for recording. In the event of termination in its entirety, no further compensation is due Grantor from the date of Grantee's recording of said termination.

3. Easement Fee. During the Easement Term hereof, Grantee shall make the following payments to Grantor:

- (a) within thirty (30) days after the Effective Date, a one-time fee equal to Twenty Thousand and No/100 Dollars (\$20,000.00);
- (b) if the Development Term is extended pursuant to Section 2(a) above, within thirty (30) days after Grantee delivers written notice of such extension, a one-time fee equal to Forty Thousand and No/100 Dollars (\$40,000.00), and if the Development Term is not extended there shall be no payment of Forty Thousand and No/100 Dollars (\$40,000.00) due and owing;
- (c) within thirty (30) days after the commencement of the Operations Term and each anniversary thereof, an annual fee equal to Ten Thousand and No/100 Dollars (\$10,000.00), increasing by One Thousand and No/100 Dollars (\$1,000.00) at each anniversary ending upon termination of Easement by Grantee;
- (d) at the commencement of the Operations Term, a one-time fee equal to One Hundred Thousand and No/100 Dollars (\$100,000.00); and
- (e) at any time before any of the above due dates occur, Grantee can cancel the Easement in its entirety by recording a Termination Easement in the Recorders of Deeds Office of Wayne County Courthouse, at which time no further payments are due Grantor.

4. Grant of Easement. Grantor does hereby grant and convey to Grantee and Grantee's agents, contractors, employees, its successors and assigns including, without limitation any utility assignee of Grantee (collectively, "Grantee Parties"), hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the Commonwealth of Pennsylvania, a non-exclusive, perpetual right and easement in, over, under, along, upon and across the Easement Area to develop, install, construct, operate, use, maintain, repair, relocate, alter and remove underground electrical (whether consisting of one or more circuits, cables, and/or wires) transmission, distribution and communications lines, together with associated and/or related facilities necessary or convenient for such electrical transmission, distribution and/or communications lines, including, without limitation, cables, conductors, conduits, wires, controls, telemetry and monitoring devices, underground ground grid, and necessary fixtures, appurtenances and related equipment, structures and facilities (collectively referred to in this Easement as the "Facilities"), together with the right to cut down, trim or otherwise control the growth of all trees and other vegetation growing at, upon or over the Easement Area and to clear any and all obstructions from the surface and subsurface of the Easement Area which would impede access to, or interfere with or potentially interfere with the Facilities, as determined in Grantee's discretion. Without limiting the generality of the foregoing, Grantee shall bury underground electrical lines associated with the Project and not use any above ground electrical poles associated with the Project. This includes all lines from the top of the mountain where the project commences to the Clinton Township/Waymart Borough line on Route 296/Belmont Turnpike.

5. Covenants Running with the Land. The terms, conditions, rights and easements contained herein shall be covenants running with the land and shall be perpetual. This Easement shall be recorded against the Grantor's Property, and the terms and conditions contained herein shall bind, inure to the benefit of, and be enforceable by, the parties hereto and their respective grantees, successors and assigns (including, without limitation, any and all successors to Grantor in title to Grantor's Property and any and all successors to Grantee in title to Grantee's Property). Notwithstanding any provision of this Easement to the contrary, Grantee may not increase the energy generating capacity of the project interconnected with the Facilities unless approved in writing and in advance by Grantor.

6. Notices. Whenever notice is required to be given pursuant to this Easement, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

(a) <u>If to Grantee:</u>	(b) <u>If to Grantor:</u>
Waymart Wind Farm LLC 132 N. York Street, Suite 3L Elmhurst, IL 60126	_____
_____	_____
_____	_____

with a copy to:

John F. Young
Clean Law PC
301 W. Grand Ave., Suite 133
Chicago, IL 60654
Email: john.young@cleanlawpc.com

7. No Cancellation Upon Breach. It is expressly agreed that no breach of this Easement shall entitle any party to cancel, rescind or otherwise terminate this Easement.

8. Grantor's Representations and Warranties. Grantor hereby represents and warrants to Grantee as follows: (a) Grantor has obtained all required consents, releases and permissions required to grant the easements and other rights set forth in this Easement; (b) each person and/or entity signing the Easement on behalf of the Grantor has the full and unrestricted authority to execute and deliver this Easement and to grant (and/or to cause Grantor to grant) the easements and rights hereunder; (c) there are no encumbrances or liens against the Grantor's Property or Easement Area except as recorded in the County recorder's office; and (d) there are no unrecorded leases, licenses or other agreements governing or affecting the right of any person or entity to occupy any portion of the Grantor's Property or the Easement Area. The foregoing representations and warranties of Grantor shall survive the grant of the easements and other rights hereunder.

9. Protection of Lenders.

(a) If Grantee has assigned, hypothecated, mortgaged or pledged all or any portion of its right, title or interest under this Easement, in the Easement Area and/or in any Facilities, to any financial institution, equity investor or other person that from time to time provides secured financing or equity investment for some or all of the Facilities, and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or

syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns (“Lender”) it shall promptly give notice of the same (including the address of the Lender) to Grantor, together with a general description of the interest transferred; *provided, however,* that the failure to give such notice shall not constitute a default or under this Easement but rather shall only have the effect that Grantor shall not be required to recognize or be bound by such assignment, hypothecation, mortgage or pledge (and all notice and other requirements in this Section 9 benefiting such Lender shall accordingly be inapplicable) until such notice shall have been given (unless such information is included in an estoppels certificated signed by Grantor, in which event notice hereunder shall not be necessary). Every Lender shall have the right, but not the obligation, (i) to make any payments due under this Easement, (ii) assign its mortgage; (iii) enforce its mortgage and (iv) to do any other act or thing that may be necessary or appropriate to be done in the performance and observance of the terms hereof. All payments so made and all things so done and performed by any Lender shall be as effective to prevent or cure any default under this Easement as they would have been if made, done and performed by Grantee, and Grantor agrees to accept such performance, payment and cure. Grantor agrees to accept such payment and performance, and authorizes the performing Lender (or its employees, agents, representatives or contractors) to enter upon the Easement Area to complete such performance with all the rights, privileges and obligations of Grantee hereunder.

(b) Grantor agrees for the benefit of each Lender that it will not, without the prior consent of such Lender (which consent shall be given or withheld on the basis of the documents governing the relationship between such Lender and Grantee): (i) amend or modify, or take any action causing, consenting to or accepting the amendment or modification of this Easement, if such amendment or modification would materially affect the rights of Grantee hereunder or would reduce the rights or remedies of such Lender hereunder or impair or reduce the security for any Lender’s lien, (ii) by agreement with Grantee, cancel, terminate, or suspend this Easement or the Right of Way Easement Area, or (iii) take any action causing, consenting to or accepting the cancellation, termination or suspension of this Easement.

(c) Grantor shall deliver to each Lender a duplicate copy of any and all notices of default that Grantor may from time to time deliver to Grantee, and such copies shall be delivered to each such Lender at the same time such notices of default are delivered to Grantee.

(d) The transfer of Grantee’s interest under this Easement to any Lender and/or to one or more purchasers or Grantees (i) at a foreclosure sale by judicial or nonjudicial foreclosure and sale, (ii) by a conveyance by Grantee in lieu of foreclosure, or (iii) by any other assignment or conveyance, including by a Lender following foreclosure and sale, or as a result of any other legal proceeding, shall not require the consent of Grantor, and Grantor agrees that upon such foreclosure, sale, conveyance, assignment or other proceeding, Grantor shall recognize such Lender or such other purchaser(s) or Grantee(s) as the successor to Grantee under this Easement; *provided, however,* that, such Lender or such purchaser or Grantee assumes the obligations of Grantee under this Easement and pays all amounts in arrears due from Grantee to Grantor hereunder.

(e) Neither the bankruptcy nor the insolvency of Grantor or Grantee shall be grounds for terminating this Easement as long as the rent and all other monetary obligations of Grantee hereunder are paid by Grantee or a Lender in accordance with the terms of this Easement. If this Easement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, or if this Easement is terminated for any reason other than a default which could have been but was not cured by a Lender as provided in this Section 9, and if, within sixty (60) days after receiving notice of such rejection or termination, any Lender shall so request, then Grantor

shall execute and deliver to such Lender or its designee a new agreement, which new agreement shall (i) be on the same terms and conditions as this Easement (except for any requirements that have been fulfilled by Grantee prior to rejection or termination of this Easement), (ii) contain a lease of the portion of the Easement Area in which such Lender had an interest on the date of such rejection or termination, (iii) contain a grant to the Lender of easements similar to the Easement Area, covering such portion or portions of the overall Easement Area as such Lender may designate, (iv) enjoy the same priority as this Easement over any lien, encumbrance or other interest created by Grantor, and (v) be executed within thirty (30) days after receipt by Grantor of notice of the Lender's election to enter into a new agreement.

(f) Each Lender is and shall be an express third-party beneficiary of the terms of this Section 11 and shall be entitled to enforce the obligations of Grantor hereunder.

10. Miscellaneous.

(a) If any term, provision or condition in this Easement shall, to any extent, be invalid or unenforceable, the remainder of this Easement (or the application of such term, provision or condition to persons or circumstances other than in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Easement shall be valid and enforceable to the fullest extent permitted by law.

(b) The terms and provisions of this Easement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

(c) This Easement may be executed in several counterparts, each of which shall be deemed an original; further the signature of the parties hereto on this Easement may be executed and notarized on separate pages, and when attached to this Easement shall constitute one complete document. The section headings appearing in this Easement are for convenience of reference only, and are not intended, to any extent and for any purpose, to limit or define the text of any section or subsection hereof.

(d) Each party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other party to effectuate the purposes and intention of this Easement.

(e) The failure of either party to enforce at any time any provision of this Easement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Easement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Easement shall be held to constitute a waiver of any other or subsequent breach. This Easement cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(f) The effective date of this Easement shall be the date the last party signs this Easement document as evidenced by the Notarial statement.

EXHIBIT A
GRANTOR'S PROPERTY

