

## **OPTION AGREEMENT**

This OPTION AGREEMENT (this “Agreement”) is made this 1st day of March, 2019 (the “Effective Date”), by and between Mark and Lucia Bagg (“Optionor”), and BNE Energy Inc. (“Optionee”).

### **WITNESSETH**

In consideration of the initial option payment as detailed in Paragraph 2 and other good and valuable consideration including but not limited to, the mutual premises and obligations set forth herein, Optionor does hereby acknowledge the receipt and sufficiency of valuable consideration and hereby grants to Optionee the sole, exclusive, and irrevocable right, privilege and option to purchase (the “Option to Purchase”) the property from Optionor located at 53 Flagg Hill Road, Colebrook, CT, 06021, consisting of approximately 27 acres of land, and more particularly described in Exhibit A attached hereto and graphically depicted in the drawings attached hereto as Exhibit B (the “Property”), free and clear of all liens and encumbrances in accordance with the terms herein.

#### **1. Term of Option**

The term of the Option shall commence upon the Effective Date and shall expire at 11.59 p.m. on December 31, 2022 (the “Option Term”) unless terminated prior to such date as provided in this Lease Agreement.

#### **2. Option Payments**

A. *Initial Option Payment.* Optionee shall pay Optionor an initial non-refundable option payment of **REDACTED** as consideration upon signing of this Agreement.

B. *Monthly Option Payments.* Optionee shall pay Optionor monthly payments due on the first of each month beginning on April 1, 2019, and continuing each month thereafter in the amount of **REDACTED** per month (“Monthly Option Payment”) unless the Property is purchased prior to such dates as provided for in this Agreement. The Purchase Price provided for in Paragraph 6 shall be reduced by half of the Initial Option Payment **REDACTED** and by half of each Monthly Option Payment **REDACTED** paid to Optionor as provided for herein. All Option payments made by Optionee under this Paragraph are non-refundable whether or not Optionee purchases the Property. Should the closing and conveyance of the Property not occur, and/or should this Agreement fail by breach of Optionee and be terminated pursuant to Paragraph 15 herein, Optionor shall retain the full amount of all Option Payments made pursuant to this Agreement as damages, and have the right to pursue any and all other remedies available to Optionor at law or in equity, as provided for in Paragraph 15 herein.

### **3. Optionor's Cooperation**

Optionor acknowledges that Optionee is developing a wind generation power facility consisting of three commercial wind turbines and related facilities known as Wind Colebrook South located on property at 17 and 29 Flagg Hill Road, Colebrook, CT 06021, consisting of approximately 80 acres of undeveloped land and a residence (the "Project"). Optionor agrees to support the Project, and to provide one letter of support for the Project at signing of this Agreement. Further, during the Option Term and for a period of five years following the conveyance of the Property as provided for in Paragraph 7, Optionor agrees: (i) not to oppose or interfere in any way with the Project; and (ii) not to publicly comment on the Project, or on matters related to the Project, in any form whatsoever, whether orally, in writing, electronically or otherwise, without Optionee's express written consent.

### **4. Rights and Limitations of Optionee**

Optionee shall have the exclusive right during the Option Term to purchase the Property in accordance with the terms of this Agreement. Optionee shall have the right to access the Property from time to time with prior notice to Optionor for purposes of developing the Project. Access to the property pursuant to this Paragraph 4 of said agreement is limited to access for the purpose of measurement, development activities such as surveys or drawings that do not impact the real property and agreed-upon soil testing. Optionee shall have no right to undertake any type of construction, improvement or preparation of the real property for any intended use by the Optionee without the express written consent of Optionor until such time as Optionee exercised its option agreement to purchase the property and the title has transferred pursuant to closing. During the Option Term, Optionor shall not sell, lease, assign or otherwise utilize the land in a manner that will impede or interfere in anyway with the development, construction, operation or maintenance of the Project. Optionee may exercise its Option to Purchase the Property, at any time during the Option Term.

### **5. Exercise of Option**

Optionee may exercise the Option to Purchase the Property at any time prior to the expiration of the Option Term by dating, executing and delivering to Optionor a fully-executed Notice of Exercise of Option to Purchase the Property attached hereto as Exhibit C, together with a deposit of **REDACTED**, to be applied to the purchase of the Property. Should the closing and transfer of title fail to occur, this deposit shall be retained by Optionor as damages, in addition to which Optionor shall have any and all other remedies available at law or in equity. Immediately upon receipt of the Notice of Exercise of Option to Purchase together with the deposit as provided above, Optionor shall execute, acknowledge and return the Notice of Exercise of Option to Purchase to Optionee.

## **6. Purchase Price**

The purchase price for the Property shall be **REDACTED**. The purchase price shall be payable by wire transfer, bank check or certified check at the closing of the transfer of title. Optionee shall be credited with one half of the Initial Option Payment and one half of any and all Monthly Option Payments made in accordance with Paragraph 2 of this Agreement and with the deposit as defined in Paragraph 5.

## **7. Transfer of Title**

The transfer of title by the Optionor to Optionee shall be by warranty deed, containing the usual covenants and free and clear of all liens, encumbrances or restrictions of record, other than any pre-existing restrictions and easements of record which do not materially affect the intended use or enjoyment of the property. Optionee shall be responsible for confirming the status of title to Optionor's property by means of a title search or abstract, performed at Optionee's costs. The closing of the transfer of title shall occur on or before the sixtieth (60<sup>th</sup>) day from the date of execution of the Option to Purchase (Paragraph 5 herein) as selected by Optionee, unless otherwise agreed to by Optionee. The time of performance of the Optionor's and Optionee's performance hereunder is of the essence. If Optionee declines, or fails to exercise, its option to purchase the Property under this Agreement, the full amount of all Option Payments made pursuant to Paragraph 2 herein shall be retained by Optionor.

The closing will be held at the offices of Optionee's attorney or at such other place as the parties may mutually agree. All adjustments, including but not limited to property taxes, water, fire, sewer, community or other assessments or taxes, fuel, service rates, rents and mortgage interest shall be apportioned as appropriate on the date of closing in accordance with the custom of the Bar Association for the county where the property is situated.

## **8. Optionee's Representations, Warranties and Covenants**

Optionee hereby represents warrants and covenants as follows:

- A. *Insurance and Indemnity.* During the Option Term, Optionee shall maintain liability insurance with Optionor being named as co-insured insuring Optionee against loss caused by Optionee's development or construction of the Project in an amount not less than one million dollars of combined single-limit liability coverage, and shall provide certificates of this insurance coverage to Optionor upon Optionor's written request. Optionee shall indemnify Optionor against liability for injuries and claims for direct physical damage to the Property to the extent caused by Optionee's development or construction of the Project.

- B. *Terms of Purchase.* The sale of the Property shall be made using customary terms for the purchase and sale of residential land in the state of Connecticut in a form substantially similar to the form of contract attached hereto as Exhibit D, Residential Real Property Purchase Contract.
- C. *Optionee's Authority.* The Optionee, BNE Energy Inc., is a duly-certified Delaware corporation authorized to do business in Connecticut, to enter into this Agreement and perform its covenants and promises. The execution, delivery and performance of this Agreement by the undersigned officer of the Optionee, has been duly authorized.

## **9. Optionor's Representations, Warranties and Covenants**

Optionor hereby represents warrants and covenants as follows:

- A. *Optionor's Authority.* Optionor is the sole owner of the Property and has the unrestricted right and authority to sign this Agreement and to grant Optionee the rights granted herein.
- B. *No Interference.* Optionor agrees that Optionee shall have the sole, exclusive, and irrevocable right, privilege and option to purchase the Property during the Option Term. Optionor's activities and any grant of rights Optionor makes to any third party, whether located on the Property or elsewhere, shall not, now or in the future, interfere in any way with Optionee's Project, and the rights granted under this Agreement.
- C. *Liens and Mortgages.* Optionor shall provide Optionee with a current listing of all known mortgages encumbering the Property. During the Option Term, Optionor shall not default on any mortgages, liens or other encumbrances on the Property.
- D. *Negative Covenant.* During the Option Term, Optionor shall not enter into or modify any documents, including any declarations, easements, restrictions or other similar instruments, that are or may be recorded against the Property, or otherwise affect the Property, or the rights and/or obligations of Optionee, without first obtaining the prior written consent of Optionee, such consent shall not be unreasonably withheld.

## **10. Confidentiality**

Optionor shall maintain in the strictest confidence, for the sole benefit of Optionee, all information pertaining to the terms and conditions of this Agreement, including, without limitation, the financial terms of, and payments under, this Agreement and Optionee's development methods, site design and the like related to the Project, whether disclosed by Optionee or discovered by Optionor, unless such information is in the public domain by reason

of prior publication. Optionor shall not use the confidential information described herein for its own benefit; publish such information; or otherwise disclose it to others, or permit its use by others unless such information is required to be disclosed by a court of competent jurisdiction, or other applicable governmental entity having such authority, after providing Optionee with notice and an opportunity to contest such disclosure. Optionee may use and disclose the confidential and proprietary information contained herein.

**11. Entire Agreement**

This Agreement and attached Exhibits constitutes the entire agreement between the Optionor and Optionee and there are no agreements, understandings, warranties or representations between the parties except as set forth herein. This Agreement cannot be amended, except by a writing executed by both parties. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.

**12. Successors and Assigns**

This Agreement shall burden the Property and shall run with the land. This Agreement shall inure to the benefit of and be binding upon Optionor and Optionee, and their respective heirs, successors and assigns.

**13. Memorandum**

Optionor and Optionee shall execute in recordable form, and Optionee shall record, a memorandum of the Option Agreement satisfactory in form and substance to Optionee and Optionor.

**14. Optionee's Right: Default and Termination**

During the Option Term, Optionee shall have the right to terminate this Option Agreement for any reason, at any time and from time to time, upon thirty (30) days prior written notice to Optionor. Upon termination of this Agreement by Optionee, all rights and obligations of Optionee pursuant to this Agreement shall be terminated.

If Optionor shall at any time be in default of any of its covenants under this Agreement and such default shall continue for a period of thirty (30) days after written notice to Optionor (or if such default is not reasonably capable of being cured within thirty (30) days, if Optionor has not commenced to cure the same within said 30-day period and/or has not diligently prosecuted the same to completion), then Optionee shall be entitled to exercise concurrently or successively any one or more of the following rights, in addition to all other remedies provided in this Agreement or available at law or in equity: (a) to bring suit for the collection of any amounts for which

Optionor may be in default, or for the performance of any other covenant or agreement of Optionor, without terminating this Agreement; and/or (b) to terminate this Agreement upon thirty (30) days' written notice to Optionor, without waiving Optionee's rights to damages for Optionor's failure to perform its obligations hereunder.

### **15. Optionor's Right to Terminate Option Upon Default of Optionee**

Optionee shall be in default under this Option if: (i) Optionee shall have failed to perform any of Optionee's covenants under this Agreement and such failure shall have continued for a period of thirty (30) days after written notice from Optionor (or if such failure is not reasonably capable of being cured within thirty (30) days, if Optionee shall not have commenced to cure the same within said 30-day period and/or shall not have diligently prosecuted the same to completion); or (ii) Optionee shall have failed to make Option Payments as applicable on the Property for a period of thirty (30) days and such failure has continued for an additional fifteen (15) days after the receipt of written notice from Optionor. If Optionee shall be in default after the expiration of the cure period set forth above, then Optionor shall be entitled, at its election, to terminate this Agreement by providing notice to Optionee in writing. If Optionor shall elect to so terminate this Agreement, then all rights and obligations of the parties shall terminate, except that Optionor shall have the right to sue for and collect all Option payments and other amounts with respect to which Optionee shall then be in default, and shall have the right to any and all other remedies available to Optionor at law or in equity.

### **16. Notices**

All notices sent pursuant to this Option Agreement, and any addendums hereto shall be written notice signed and sent by registered mail return receipt requested to the Optionor and the Optionee at the addresses set forth herein, and with copies as follows:

- A. A copy of any notice sent to Mark Bagg at 59 Pine Street, New Canaan, CT 06840 along with a copy to Attorney Sperry DeCew, 22 East Avenue, New Canaan, CT 06840.
- B. A copy of said notice sent to Paul J. Corey at 17 Flagg Hill Road, Colebrook, CT 06021 along with a copy to the Law Offices Paul R. Vallillo, LLC, The Prospect Law Center – Crosspointe North, 50 Waterbury Road, Suite 2C, Prospect, CT 06712.

### **17. Force Majeure**

If performance of this Agreement or of any obligation hereunder is prevented or substantially restricted or interfered with by reason of an event of "Force Majeure" (as defined below), the affected party, upon giving notice to the other party, shall be excused from such performance to

the extent of and for the duration of such prevention, restriction or interference. The affected party shall use its reasonable efforts to avoid or remove such causes of nonperformance and shall continue performance as soon as such causes are removed. "Force Majeure" means, fire, earthquake, flood, tornado, or other acts of God and natural disasters; strikes or labor disputes; war, acts of terrorism, civil strife or other violence; any law, order proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility; or any other act or condition beyond the reasonable control of a party.

**18. Governing Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Connecticut and any dispute arising out of this Agreement shall be subject to the jurisdiction of the courts of the State of Connecticut. The parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good-faith negotiation. If the parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, then each shall have all remedies available at law or in equity. Each party waives all right to trial by jury and specifically agrees that trial of suits or causes of action arising out of this Agreement shall be to the Court. The parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either party shall not be employed in the interpretation of this Agreement. In any dispute arising out of or in connection with this Agreement, a party that obtains an award substantially the same as the award sought therein shall be entitled to payment of its reasonable attorneys' fees in connection with the action. Time is of the essence with regard to the terms and conditions of this Agreement.

-signatures on next page-

Option Agreement  
March 1, 2019

Confidential and Proprietary

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

Witnesseth:

Meghan Gaudian  
Rey Mahalas Peroy S MHALAS

OPTIONOR:

  
Mark Bagg

STATE OF CONNECTICUT : : ss. March 1st, 2019.  
COUNTY OF Fairfield :

On this the 1 day of February, 2019, before me, personally appeared Mark Bagg, who acknowledged himself to be the owner of 53 Flagg Hill Road, Colebrook, CT 06021, and that he as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name by himself as Mark Bagg.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Commissioner of Superior Court  
Notary Public  
My Commission Expires:

KARINE HETU  
NOTARY PUBLIC

COMMISSION EXPIRES SEPTEMBER 30, 2020



Option Agreement  
March 1, 2019

Confidential and Proprietary

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

Witnesseth:

Meghan Gaudan

Perry S. Michael

OPTIONOR:

Lucia Bagg

Lucia Bagg

STATE OF CONNECTICUT

: ss.

March

1st, 2019.

COUNTY OF Fairfield

March

On this the 1 day of February, 2019, before me, personally appeared Lucia Bagg, who acknowledged herself to be the owner of 53 Flagg Hill Road, Colebrook, CT 06021, and that she as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing her name by herself as Lucia Bagg.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Karin Hetu

Commissioner of Superior Court

Notary Public

My Commission Expires:

KARINE HETU  
NOTARY PUBLIC  
MY COMMISSION EXPIRES SEPTEMBER 30, 2020



Option Agreement  
March 1, 2019

Confidential and Proprietary

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the date first above written.

Witnesseth:

OPTIONEE:  
BNE Energy Inc.

  
Greg J. Zupkus

  
By: Gregory J. Zupkus

Its President and CEO  
Duly Authorized

STATE OF CONNECTICUT

: ss.

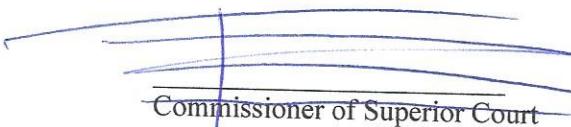
COUNTY OF NEW HAVEN

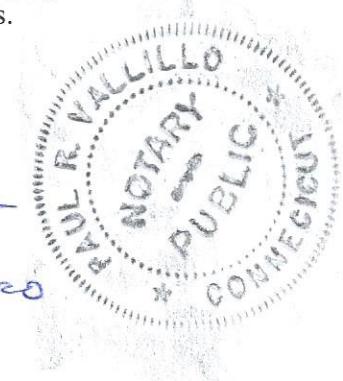
Prospect

March 1, 2019.

On this the 1<sup>st</sup> day of March, 2019, before me, the undersigned officer, personally appeared Gregory J. Zupkus, who acknowledged himself to be the President & CEO of BNE Energy Inc., and that he as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing his name on behalf of corporation by himself as Gregory J. Zupkus.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Commissioner of Superior Court  
Notary Public  
My Commission Expires: 9/30/2020



Option Agreement  
March 1, 2019

Confidential and Proprietary

## Exhibit A

### Description of Property

Option Agreement  
March 1, 2019

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## Exhibit B

### Map of Property

Option Agreement  
March 1, 2019

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## Exhibit C

### Notice of Exercise of Option to Purchase

Option Agreement  
March 1, 2019

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## Exhibit D

### Residential Real Property Purchase Contract