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DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[BOEM-2012-0006]

Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) will use Form 0008 to issue commercial renewable energy leases on the Outer Continental Shelf (OCS). In the preamble to the April 29, 2009, Final Rule, “Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf,” BOEM stated that “we intend to develop a model lease form through a public process that will invite all interested and affected parties for their input.” (74 FR 19638, April 29, 2009).

The BOEM developed a draft of the form included in this Notice, and published it in the *Federal Register* (76 FR 55090, September 6, 2011) with a 30-day comment period (Draft Form). BOEM has reviewed all the comments received and revised the Draft Form where appropriate. For further information, including summaries of comments and BOEM’s response to those comments, visit BOEM’s web site, at

<http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx>.

DATES: The lease form will be effective and available for use on [INSERT DATE 15 DAYS FOLLOWING PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].

OR FURTHER INFORMATION CONTACT: Maureen A. Bornholdt, Program
Manager, Office of Renewable Energy Programs, at (703) 787-1300 for lease questions.

January 23, 2012
Dated

Tommy P. Beaudreau
Director, Bureau of Ocean Energy Management

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF OCEAN ENERGY MANAGEMENT COMMERCIAL LEASE OF SUBMERGED LANDS FOR RENEWABLE ENERGY DEVELOPMENT ON THE OUTER CONTINENTAL SHELF <i>Paperwork Reduction Act of 1995 statement: This form does not constitute an information collection as defined by 44 U.S.C. § 3501 et seq. and therefore does not require approval by the Office of Management and Budget.</i>	Office	Renewable Energy Lease Number
	Cash Bonus and/or Acquisition Fee	Resource Type
	Effective Date	Block Number(s)

This lease, which includes any addenda hereto, is hereby entered into by and between the United States of America, ("Lessor"), acting through the Bureau of Ocean Energy Management ("BOEM"), its authorized officer, and

Lessee	Interest Held

("Lessee"). This lease is effective on the date written above ("Effective Date") and will continue in effect until the lease terminates as set forth in Addendum "B." In consideration of any cash payment heretofore made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, covenants, and stipulations contained herein and attached hereto, the Lessee and the Lessor agree as follows:

Section 1: Statutes and Regulations.

This lease is issued pursuant to subsection 8(p) of the Outer Continental Shelf Lands Act ("the Act"), 43 U.S.C. §§ 1331 *et seq.* This lease is subject to the Act and regulations promulgated pursuant to the Act, including but not limited to, offshore renewable energy and alternate use regulations at 30 C.F.R. Part 585 as well as other applicable statutes and regulations in existence on the Effective Date of this lease. This lease is also subject to those statutes enacted (including amendments to the Act or other statutes) and regulations promulgated thereafter, except to the extent that they explicitly conflict with an express provision of this lease. It is expressly understood that amendments to existing statutes and regulations, including but not limited to the Act, may be made, and/or new statutes may be enacted or new regulations promulgated, which do not explicitly conflict with an express provision of this lease, and that the Lessee bears the risk that such may increase or decrease the Lessee's obligations under the lease.

Section 2: Rights of the Lessee.

- (a) The Lessor hereby grants and leases to the Lessee the exclusive right and privilege, subject to the terms and conditions of this lease and applicable regulations, to: (1) submit to the Lessor for approval a Site Assessment Plan (SAP) and Construction and Operations Plan (COP) for the project identified in Addendum "A" of this lease; and (2) conduct activities in the area identified in Addendum A of this lease ("leased area") that are described in a SAP or COP that has been approved by the Lessor. This lease does not, by itself, authorize any activity within the leased area.
- (b) The rights granted to the Lessee herein are limited to those activities described in any SAP or COP approved by the Lessor. The rights granted to the Lessee are limited by the lease-specific terms, conditions, and stipulations required by the Lessor per Addendum C.
- (c) This lease does not authorize the Lessee to conduct activities on the Outer Continental Shelf (OCS) relating to or associated with the exploration for, or development or production of, oil, gas, other seabed minerals, or renewable energy resources other than those renewable energy resources identified in Addendum "A."

Section 3: Reservations to the Lessor.

- (a) All rights in the leased area not expressly granted to the Lessee by the Act, applicable regulations, this lease, or any approved SAP or COP, are hereby reserved to the Lessor.
- (b) The Lessor will decide whether to approve a SAP or COP in accordance with the applicable regulations in 30 C.F.R. Part 585. The Lessor retains the right to disapprove a SAP or COP based on the Lessor's determination that the proposed activities would have unacceptable environmental consequences, would conflict with one or more of the requirements set forth in subsection 8(p)(4) of the Act (43 U.S.C. § 1337(p)(4)), or for other reasons provided by the Lessor pursuant to 30 C.F.R. § 585.613(e)(2) or 30 C.F.R. § 585.628(f)(2). Disapproval of plans will not subject the Lessor to liability. The Lessor also retains the right to approve with modifications a SAP or COP, as provided in applicable regulations.
- (c) The Lessor reserves the right to suspend the Lessee's operations in accordance with the national security and defense provisions of section 12 of the Act and applicable regulations.
- (d) The Lessor reserves the right to authorize other uses within the leased area that will not unreasonably interfere with activities described in Addendum "A."

Section 4: Payments.

- (a) The Lessee must make all rent payments to the Lessor in accordance with applicable regulations in 30 C.F.R. Part 585, unless otherwise specified in Addendum "B."
- (b) The Lessee must make all operating fee payments to the Lessor in accordance with applicable regulations in 30 C.F.R. Part 585, as specified in Addendum "B."

Section 5: Plans.

The Lessee may conduct those activities described in Addendum "A" only in accordance with a SAP or COP approved by the Lessor. The Lessee may not deviate from an approved SAP or COP except as provided in applicable regulations in 30 C.F.R. Part 585.

Section 6: Associated Project Easements.

Pursuant to 30 C.F.R. § 585.200(b), the Lessee has the right to one or more project easements, without further competition, for the purpose of installing gathering, transmission, and distribution cables, pipelines, and appurtenances on the OCS, as necessary for the full enjoyment of the lease, and under applicable regulations in 30 C.F.R. Part 585. As part of submitting a COP for approval, the Lessee may request that one or more easement(s) be granted by the Lessor. If the Lessee requests that one or more easement(s) be granted when submitting a COP for approval, such project easements will be granted by the Lessor in accordance with the Act and applicable regulations in 30 C.F.R. Part 585 upon approval of the COP in which the Lessee has demonstrated a need for such easements. Such easements must be in a location acceptable to the Lessor, and shall be subject to such conditions as the Lessor may require. The project easement(s) that would be issued in conjunction with an approved COP under this lease will be described in Addendum "D" to this lease, which will be updated as necessary.

Section 7: Conduct of Activities.

The Lessee must conduct, and agrees to conduct, all activities in the leased area in accordance with an approved SAP or COP, and with all applicable laws and regulations.

The Lessee further agrees that no activities authorized by this lease will be carried out in a manner that:

- (a) could unreasonably interfere with or endanger activities or operations carried out under any lease or grant issued or maintained pursuant to the Act, or under any other license or approval from any Federal agency;
- (b) could cause any undue harm or damage to the environment;
- (c) could create hazardous or unsafe conditions; or
- (d) could adversely affect sites, structures, or objects of historical, cultural, or archaeological significance, without notice to and direction from the Lessor on how to proceed.

Section 8: Violations, Suspensions, Cancellations, and Remedies.

If the Lessee fails to comply with (1) any of the applicable provisions of the Act or regulations, (2) the approved SAP or COP, or (3) the terms of this lease, including associated Addenda, the Lessor may exercise any of the remedies that are provided under

the Act and applicable regulations, including, without limitation, issuance of cessation of operations orders, suspension or cancellation of the lease, and/or the imposition of penalties, in accordance with the Act and applicable regulations.

The Lessor may also cancel this lease for reasons set forth in subsection 5(a)(2) of the Act (43 U.S.C. § 1334(a)(2)), or for other reasons provided by the Lessor pursuant to 30 C.F.R. § 585.437.

Non-enforcement by the Lessor of a remedy for any particular violation of the applicable provisions of the Act or regulations, or the terms of this lease, shall not prevent the Lessor from exercising any remedy, including cancellation of this lease, for any other violation or for the same violation occurring at any other time.

Section 9: Indemnification.

The Lessee hereby agrees to indemnify the Lessor for, and hold the Lessor harmless from, any claim caused by or resulting from any of the Lessee's operations or activities on the leased area or project easements or arising out of any activities conducted by or on behalf of the Lessee or its employees, contractors (including Operator, if applicable), subcontractors, or their employees, under this lease, including claims for:

- a. loss or damage to natural resources,
- b. the release of any petroleum or any Hazardous Materials,
- c. other environmental injury of any kind,
- d. damage to property,
- e. injury to persons, and/or
- f. costs or expenses incurred by the Lessor.

The Lessee shall not be liable for any losses or damages proximately caused by the activities of the Lessor or the Lessor's employees, contractors, subcontractors, or their employees. The Lessee shall pay the Lessor for damage, cost, or expense due and pursuant to this section within 90 days after written demand by the Lessor. Nothing in this lease shall be construed to waive any liability or relieve the Lessee from any penalties, sanctions, or claims that would otherwise apply by statute, regulation, operation of law, or could be imposed by the Lessor or other government agency acting under such laws.

"Hazardous Material" means

1. Any substance or material defined as hazardous, a pollutant, or a contaminant under the *Comprehensive Environmental Response, Compensation, and Liability Act* at 42 U.S.C. §§ 9601(14) and (33);
2. Any regulated substance as defined by the Resource Conservation and Recovery Act ("RCRA") at 42 U.S.C. § 6991 (7), whether or not contained in or released from underground storage tanks, and any hazardous waste regulated under RCRA pursuant to 42 U.S.C. §§ 6921 *et seq.*;
3. Oil, as defined by the Clean Water Act at 33 U.S.C. § 1321(a)(1) and the Oil Pollution Act at 33 U.S.C. § 2701(23); or

4. Other substances that applicable Federal, state, tribal, or local laws define and regulate as “hazardous.”

Section 10: Financial Assurance.

The Lessee must provide and maintain at all times a surety bond(s) or other form(s) of financial assurance approved by the Lessor in the amount specified in Addendum “B.” As per the applicable regulations in 30 C.F.R. Part 585, if, at any time during the term of this lease, the Lessor requires additional financial assurance, then the Lessee shall furnish the additional financial assurance required by the Lessor in a form acceptable to the Lessor within ninety (90) days after receipt of the Lessor’s notice of such adjustment.

Section 11: Assignment or Transfer of Lease.

This lease may not be assigned or transferred in whole or in part without written approval of the Lessor. The Lessor reserves the right, in its sole discretion, to deny approval of the Lessee’s application to transfer or assign all or part of this lease. Any assignment will be effective on the date the Lessor approves the Lessee’s application. Any assignment made in contravention of this section is void.

Section 12: Relinquishment of Lease.

The Lessee may relinquish this entire lease or any officially designated subdivision thereof by filing with the appropriate office of the Lessor a written relinquishment application, in accordance with applicable regulations in 30 C.F.R. Part 585. No relinquishment of this lease or any portion thereof will relieve the Lessee or its surety of the obligations accrued hereunder, including but not limited to, the responsibility to remove property and restore the leased area pursuant to section 13 of this lease and applicable regulations.

Section 13: Removal of Property and Restoration of the Leased Area on Termination of Lease.

Unless otherwise authorized by the Lessor, pursuant to the applicable regulations in 30 C.F.R. Part 585, the Lessee must remove or decommission all facilities, projects, cables, pipelines, and obstructions and clear the seafloor of all obstructions created by activities on the leased area, including any project easements within two years following lease termination, whether by expiration, cancellation, contraction, or relinquishment, in accordance with any approved SAP, COP, or approved Decommissioning Application, and applicable regulations in 30 C.F.R. Part 585.

Section 14: Safety Requirements.

The Lessee must:

- a. maintain all places of employment for activities authorized under this lease in compliance with occupational safety and health standards and, in addition, free

from recognized hazards to employees of the Lessee or of any contractor or subcontractor operating under this lease;

- b. maintain all operations within the leased area in compliance with regulations in 30 C.F.R. Part 585 and orders from the Lessor and other Federal agencies with jurisdiction, intended to protect persons, property and the environment on the OCS; and
- c. must provide any requested documents and records, which are pertinent to occupational or public health, safety, or environmental protection, and allow prompt access, at the site of any operation or activity that is subject to safety regulations, to any inspector authorized by the Lessor or other Federal agency with jurisdiction.

Section 15: Debarment Compliance.

The Lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations set forth in 2 C.F.R. Parts 180 and 1400 and must communicate the requirement to comply with these regulations to persons with whom it does business related to this lease by including this requirement in all relevant contracts and transactions.

Section 16: Notices.

All notices or reports provided to the Lessor by the Lessee under the terms of this lease must be in writing, except as provided herein. Written notices must be delivered to the party's Lease Representative, as specifically listed in Addendum "A," either electronically, by hand, by facsimile, or by United States first class mail, adequate postage prepaid. Either party may notify the other of a change of address by doing so in writing. Until notice of any change of address is delivered as provided in this section, the last recorded address of either party will be deemed the address for all notices required under this lease. For all operational matters, notices must be provided to the party's Operations Representative, as specifically listed in Addendum "A," as well as the Lease Representative.

Section 17: Severability Clause.

If any provision of this lease is held unenforceable, all remaining provisions of this lease will remain in full force and effect.

Section 18: Modification.

This lease may be modified or amended only by mutual agreement of the Lessor and the Lessee. No such modification or amendment shall be binding unless it is in writing and signed by the Lease Representatives of both the Lessor and the Lessee.

Lessee

(Signature of Authorized Officer)

(Name of Signatory)

(Title)

(Date)

The United States of America

Lessor

(Signature of Authorized Officer)

(Name of Signatory)

(Title)

(Date)

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

ADDENDUM "A"

DESCRIPTION OF LEASED AREA AND LEASE ACTIVITIES

Lease Number _____

I. Lessor and Lessee Contact Information

Lessee Company Number: _____

(a) Lessor's Contact Information

	Lease Representative	Operations Representative
Name		
Title		
Address		
Phone		
Fax		
Email		

(b) Lessee's Contact Information

	Lease Representative	Operations Representative
Name		
Title		
Address		
Phone		
Fax		
Email		

II. Description of Leased Area

The total acreage of the lease area is _____.

This area is subject to later adjustment, in accordance with applicable regulations (*e.g.*, contraction, relinquishment, etc.).

The following blocks or portions of blocks lying within Official Protraction Diagram _____, are depicted on the map attached and comprise _____ acres, more or less.

For the purposes of these calculations, the acreage of a full block is _____.

III. Renewable Energy Resource

IV. Description of the Project

V. Description of Project Easement(s)

Once approved, the Lessor will incorporate your project easement(s) in your lease as Addendum "D."

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

ADDENDUM "B"

LEASE TERM AND FINANCIAL SCHEDULE

Lease Number _____

I. Lease Term

The duration of each term of the lease is described below. The terms may be extended or otherwise modified in accordance with applicable regulations in 30 C.F.R. Part 585.

Lease Term:	Duration:
Preliminary Term	
Site Assessment Term	
Operations Term	

Renewal: The Lessee may request renewal of the operations term of this lease, in accordance with applicable regulations in 30 C.F.R. Part 585. The Lessor, at its discretion, may approve a renewal request to conduct substantially similar activities as were originally authorized under this lease or in an approved COP. The Lessor will not approve a renewal request that involves development of a type of renewable energy not originally authorized in the lease. The Lessor may revise or adjust payment terms of the original lease, as a condition of lease renewal.

Unless otherwise described below, the Preliminary Term begins on the Effective Date of this lease for leases issued competitively. Unless otherwise described below, for noncompetitively issued leases, the Site Assessment Term begins on the Effective Date of this lease. The Operations Term begins on the date that the Lessor approves the Lessee's COP.

II. Definitions

III. Payments

(a) **Rent.** The Lessee must pay rent as described below:

- Acres in Project Area: _____
- Annual Rental Rate: \$_____ per acre or fraction thereof

- Rental Fee for entire project area: \$_____ x _____ (rounded up) = \$_____

(1) ***Project Easement.***

Rent for any project easement(s) is described in Addendum "D".

(2) ***Relinquishment.***

If the Lessee submits an application for relinquishment of a portion of the leased area within the first 45 days following the Lease's Effective Date, and the Lessor approves that application, no rent payment will be due on that relinquished portion of the leased area. Later relinquishments of any leased area will reduce the Lessee's rent payments due in the year following the Lessor's approval of the relinquishment.

(b) ***Operating Fee.*** The Lessee must pay an operating fee as described below:

(1) **Initial Operating Fee Payment.**

(2) **Annual Operating Fee Payment.**

(3) **Final Operating Fee Payment.**

(4) **The formula for calculating the operating fee in year *t*.**

(c) ***Reporting, Validation, Audits, and Late Payments.***

IV. Financial Assurance

The Lessor will determine the amount of financial assurance requirements in accordance with applicable regulations at 30 CFR Part 585. The amount of the financial assurance must be no less than the amount required to meet all lease obligations, including:

- The projected amount of rent and other payments due the Lessor over the next 12 months;
- Any past due rent and other payments;
- Other monetary obligations; and
- The estimated cost of facility decommissioning.

(a) **Initial Financial Assurance Due Before Lease's Effective Date.**

(b) **Additional Financial Assurance.**

(C) Adjustments to Financial Assurance Amounts. The Lessor reserves the right to adjust the amount of any financial assurance requirement (initial, supplemental or decommissioning) associated with this lease and/or reassess the Lessee's cumulative lease obligations, including decommissioning obligations, pursuant to the applicable regulations in 30 C.F.R. Part 585.

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

ADDENDUM "C"¹

LEASE-SPECIFIC TERMS, CONDITIONS, AND STIPULATIONS

Lease Number _____

The Lessee's rights to conduct activities on the leased area are subject to the following terms, conditions, and stipulations:

¹ Note: Stipulations are developed on a case-by-case basis and relate to location, technology utilized, and other relevant factors, including site-specific findings from project-specific environmental analyses.

The mitigation, monitoring, and reporting requirements listed in this Addendum C are adopted as terms and conditions of the lease. Monitoring results and required reports must be submitted to the Lessor as specified below:

**Bureau of Ocean Energy Management
Office of Renewable Energy Programs
381 Elden Street, HM1328
Herndon, Virginia 20170
Phone: 703-787-1300
Fax: 703-787-1708**

The Lessor may change this address upon notice to the Lessee in accordance with Section 16 of this lease.

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF OCEAN ENERGY MANAGEMENT

ADDENDUM "D"

PROJECT EASEMENT

Lease Number _____

This section includes a description of the Project Easement(s), if any, associated with this lease, and the financial terms associated with it. This section will be updated as necessary.

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