

1 Pamela M. Egan, WSBA No. 54736  
2 William R. Firth, III (admitted *pro hac vice*)  
3 CKR Law LLP  
4 506 2<sup>nd</sup> Avenue, Suite 1400  
5 Seattle, WA 98114  
6 Telephone: (415) 297-0132  
7 Facsimile: (206) 582-5001  
8 Email: [pegan@ckrlaw.com](mailto:pegan@ckrlaw.com)

9 *Attorneys for Mark D. Waldron in his capacity as*  
10 *the duly-appointed Chapter 11 Trustee*

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF WASHINGTON**

In re:

GIGA WATT, Inc., a Washington  
corporation,

Debtor.

---

MARK D. WALDRON, in his  
capacity as the duly-appointed  
Chapter 11 Trustee,

vs.

DAVID M. CARLSON and JANE  
DOE 1, individually and on behalf of  
the marital estate, ENTERPRISE  
FOCUS, INC., a Washington  
corporation, CLEVER CAPITAL,  
LLC, a Washington limited liability  
company, JEFFREY FIELD, ROB  
TAVIS, AND JANE DOES 2  
THROUGH 15

Case No. 18-03197

The Honorable Frederick P. Corbit

Chapter 11

Adv. Pro. No.

**VERIFIED COMPLAINT FOR  
AVOIDANCE AND RECOVERY OF  
FRAUDULENT TRANSFERS  
AND/OR PREFERENTIAL  
TRANSFERS; BREACH OF  
FIDUCIARY DUTY; TURNOVER;  
AND INJUNCTIVE RELIEF; AND  
THE CHAPTER 11 TRUSTEE'S  
OBJECTIONS TO CLAIMS OF  
DAVID M. CARLSON (CLAIMS  
NOS. 318 AND 319) AND OF  
CLEVER CAPITAL LLC (CLAIM  
NO. 320)**

---

Complaint for Avoidance and Recovery of  
Fraudulent Transfers and/or Preferential and/or, etc. - Page 1

1 Mark D. Waldron, in his capacity as the duly-appointed Trustee in the  
2 above-captioned case, hereby submits the following:

3 **INTRODUCTORY STATEMENT**<sup>1</sup>

4 1. This Complaint relates to one of the Debtor’s three sites: the TNT  
5 Facility.<sup>2</sup>

6 2. Three days before the Petition Date, Defendant Carlson – who was a  
7 “governor” of the Debtor at the time and thus a fiduciary – caused Defendant  
8 Turner, his subordinate, to sign over to Defendant Carlson’s wholly-owned  
9 affiliate, Defendant Clever Capital: the power contract between Giga Watt and the  
10 Douglas County Public Utility District No. 1 for 3.3MW of power at rates that are  
11 among the cheapest in the world; hundreds of computers that “mine” for  
12 cryptocurrency and their accompanying power systems, and a security interest in  
13 the Debtor’s assets located at the TNT Facility. The consideration recited is  
14 approximately \$86,000, which, if really paid or owed, is by any measure, below  
15 the assets’ value by many multiples.

16 3. That same day, November 16, 2019, Defendant Carlson caused the  
17 Debtor to agree to pay to his company, Defendant Clever Capital, “rent” for  
18 Buildings A, B and H on the Debtor’s TNT Facility. Upon information and belief,  
19 Defendant Carlson also took possession of Building C and the office located at the  
20 Debtor’s TNT Facility on or about this time.

21 \_\_\_\_\_  
22 <sup>1</sup> Unless otherwise defined herein, capitalized terms have the meanings ascribed to  
them in subsequent sections of this Verified Complaint.

23 <sup>2</sup> The other two sites are the Moses Lake Facility and the Pangborn site.

1           4.     On April 19, 2019, Defendant Carlson caused Defendant Clever  
2 Capital to file a claim seeking approximately \$260,000 in “rent” and associated  
3 “landlord” costs for the TNT Facility. This claim is fraudulent. Defendant Clever  
4 Capital holds no interest of any kind in real property. Further, all leases with  
5 respect to the TNT Facility were expressly assigned to the Debtor pursuant to the  
6 Sale and Assignment Agreement.

7           5.     Worse still, Defendant Carlson has recently caused Defendant Clever  
8 Capital to obstruct the Trustee’s effort to negotiate an agreement with the TNT  
9 Landlord and the DC PUD to re-open the TNT Facility as the Trustee successfully  
10 did with the Moses Lake Facility. Defendant Clever Capital has claimed that the  
11 “lease” (in which it holds no interest) has been rejected and his company,  
12 Defendant Clever Capital, is now in control of the TNT Facility. Defendant  
13 Carlson and Defendant Clever Capital’s conduct is causing ongoing and  
14 substantial damage to the estate. It threatens to severely undermine the Trustee’s  
15 to-date successful efforts to create and capture going concern value for the benefit  
16 of creditors.

17           6.     As set forth in the Prayer for Relief set forth below, all of the assets  
18 transferred to Defendant Clever Capital on the eve of bankruptcy are fraudulent  
19 transfers and/or preferences that the Trustee seeks to avoid and recover for the  
20 benefit of the estate.

21           7.     The Trustee seeks damages for breach of fiduciary duty by the  
22 Defendant Carlson.



1 of the Debtor, which means that he was (i) a director of Giga Watt, (ii) the person  
2 under whose authority Giga Watt's powers were exercised and/or (iii) the person  
3 under whose direction the activities and affairs of the Debtor were managed  
4 pursuant to the organic law and organic rules of the Debtor. As the Chief  
5 Executive Officer of Giga Watt, he assiduously promoted a large-scale  
6 unregistered securities offering that is accompanied by numerous indicia of fraud.

7 14. Defendant Enterprise Focus, Inc. ("Defendant Enterprise") is a  
8 corporation that was formed under the laws of Washington on May 1, 2009. It was  
9 administrative dissolved in October 2018.

10 15. Defendant Clever Capital LLC ("Defendant Clever Capital") began as  
11 CryptoMatrix Holdings, LLC, a limited liability company organized under the  
12 laws of the state of Washington, on or about December 2, 2015. On January 30,  
13 2018, CryptoMatrix Holdings, LLC changed its name to Clever Capital LLC  
14 according to a filing with the Washington Secretary of State signed by Defendant  
15 Carlson. Upon information and belief, Defendant Carlson wholly owns Defendant  
16 Clever Capital.

17 16. Upon information and believe Defendant, Jeffrey Field, is a  
18 shareholder of Defendant Enterprise.

19 17. Upon information and belief, Defendant, Rob Tavis, is a shareholder  
20 of Defendant Enterprise.

21 18. The true names of Jane Does 1 through 15 are unknown.  
22  
23

## CHRONOLOGY

19. All of the statements and allegations in the preceding paragraphs are incorporated herein by reference as if set forth fully in. They are repeated in this section only to the extent necessary to be clear.

20. On January 1, 2017, Defendant Carlson, Defendant Enterprise, Defendant Field and Defendant Tavis, on the one hand, and Giga Watt, on the other hand, entered into that certain *Bill of Sale and Assignment and Assumption Agreement* (the “Sale and Assignment Agreement”). A copy of the Sale and Assignment Agreement is attached hereto as **Exhibit A**.

21. Defendants Carlson and Enterprise conducted business under the name “MegaBigPower.”

22. Pursuant to the Sale and Assignment Agreement, Defendants Carlson, Enterprise, Field and Tavis sold and assigned to Giga Watt all of their assets, interests and good will in “MegaBigPower” for a purchase price of \$3 million.

23. On January 15, 2017, the Debtor, Defendant Carlson and Defendant Enterprise signed an Addendum to the Sale and Assignment Agreement pursuant to which the purchase price for MegaBigPower was reduced from \$3 million to \$1 million and the method of payment was changed from bitcoin to U.S. dollars. A copy of the Addendum is attached hereto as **Exhibit B**.

24. MegaBigPower ran two crypto-mining facilities. One was a smaller version of what is now the Debtor’s facility at Moses Lake, Washington that the Trustee has recently re-opened. The other, referred to herein as the TNT Facility, is located in Wenatchee, Washington.

1           25.    The TNT Facility is made up of five buildings and related  
2 infrastructure and includes Buildings A, B, C, and H and an office.

3           26.    With respect to the TNT Facility, the Sale and Assignment Agreement  
4 provides in paragraph 1 that:

5                   [T]he Seller *hereby* sells, conveys, *assigns*, and transfers  
6 to the Buyer the assets set forth on Schedule (the  
7 “Purchased Assets”) free and clear of any and all liens  
8 and encumbrances, and the Buyer *hereby* accepts the  
9 sale, conveyance, *assignment*, and transfer of the  
Purchased Assets and assumes the Buyer’s obligations  
under the contracts listed on Schedule 1 (the “Assumed  
Contracts”).

10           **Exhibit A**, Sale and Assignment Agreement, ¶ 1 (emphasis added).

11           27.    Schedule 1 of the Sale and Assignment Agreement defines “Purchased  
12 Assets” to include the “*Wenatchee and Moses Lake leases and facility*  
13 *infrastructure* (Exhibit 1)” and “equipment of the Wenatchee unused power  
14 infrastructure (Exhibit 2).” **Exh. A**, Sale and Assignment Agreement, Schedule 1.

15           28.    Exhibit 1 to the Sale and Assignment Agreement includes:

16                   Wenatchee Leases & Facility Infrastructure:

17                   H building 1.75MW  
18                   A building Storage  
19                   B building 225kW  
20                   C building 225kW  
21                   Eller St House/Office

22           **Exh. A**, Sale and Assignment Agreement, Schedule 1, Exh. 1.

23           29.    Exhibit 1 itemizes the Facility Infrastructure as including, “Deposits  
24 with Landlord for buildings A, D, C, and H” and other significant assets, such as  
25 “underground conduits/trenches,” “power pole,” “transformers,” “vaults,” and “

1 secondary power (1" conductors)," among other assets. Exh. A, Sale and  
2 Assignment Agreement, Schedule 1, Exh. 1.

3 30. Schedule 1, Exh.1 also states:

4 MBP Electrical Infrastructure generally consists of  
5 tenant improvements to leasehold property. *It represents*  
6 *a long-term usable capital investment that is producing*  
7 *income.*

8 **Exhibit A**, Sale and Assignment Agreement, Schedule 1, Exh. 1.

9 31. Exhibit 2 states:

10 MBP [MegaBigPower] has some uninstalled power  
11 infrastructure, ready for a project. This equipment is new  
12 and never used. . . .”

13 **Exhibit A**, Sale and Assignment Agreement, Schedule 1, Exh. 2. The  
14 uninstalled power infrastructure is further described in Exhibit 2 as “a  
15 1MW system” consisting of four “480V 225kW dry type  
16 transformers,” two “480V mains breakers,” four “208V Load Centers  
17 (400A disconnects)” and twelve “400 Amp Breaker Panels  
18 w/breakers.”

19 32. Schedule 1 states that “Assumed Contracts” includes, “lease  
20 agreements for the Eller St house/office, building A, building B, building C,  
21 building H, . . . .” **Exhibit A**, Sale and Assignment Agreement, Schedule 1.

22 33. The Trustee is informed by the TNT Landlord, TNT Business  
23 Complex LLC, and therefore believes, that (i) Defendant Enterprise leased from  
24 the TNT Landlord, Buildings A and C of the TNT Facility, (ii) Defendant Carlson  
25 leased from the TNT Landlord, Buildings B and H of the TNT Facility, and (iii)



1 either Defendant Carlson and/or Defendant Enterprise leased from the TNT  
2 Landlord the office located on the TNT Facility (collectively, the “TNT Leases”).

3 34. The TNT Landlord consented to Giga Watt’s taking over of the TNT  
4 Facility on the understanding that Defendant Carlson would remain liable to them  
5 on the TNT Leases. Therefore, Defendant Carlson and Defendant Enterprise  
6 assigned their interests in the TNT Leases to Giga Watt by agreeing to remain  
7 liable to the TNT Landlord for Giga Watt’s failure to perform.

8 35. Consistent with the assignment, on July 11, 2017, Defendant  
9 Enterprise represented in its Annual Report to the Washington Secretary of State  
10 under penalty of perjury that it held no leasehold interests. A copy of the  
11 foregoing is attached hereto as **Exhibit C**.

12 36. Less than six weeks later, Giga Watt began the following series of  
13 payments to Carlson:

14

Date	Bitcoin	Dollar Value at time of transfer
August 18, 2017	270.3534	\$1,151,164.78
August 21, 2017	50.0000	\$213,800
March 16, 2017	117.92506	\$1,013,447.97
		<b>\$2,378,412.75</b>

15  
16  
17  
18  
19  
20  
21 37. This amount exceeds the \$1 million purchase price set forth in the  
22 Addendum by \$1,378,412.75.

1           38.    On April 30, 2018, Giga Watt signed a contract with the Douglas  
2 County Public Utility District No. 1 (the “DC PUD”) pursuant to which the DC  
3 PUD agreed to provide to the TNT Facility 3.3 MW of power. Defendant Carlson  
4 signed the contract on behalf of Giga Watt. On May 14, 2018, the DC PUD signed  
5 the power contract.

6           39.    On October 18, 2018, Defendant Enterprise was administratively  
7 dissolved by the Washington Secretary of State.

8           40.    On October 25, 2018, Giga Watt’s registered agent filed Giga Watt’s  
9 annual report with the Washington Secretary of State. That annual report, signed  
10 under penalty of perjury, listed Defendant Carlson as a Governor and, therefore,  
11 as a fiduciary. A copy of the foregoing document is attached hereto as **Exhibit D**.

12           41.    On November 16, 2018, Defendant Carlson, when he was a Governor  
13 and shareholder of the Debtor, and thus a fiduciary, caused the Debtor to transfer  
14 to Defendant Clever Capital, his wholly-owned company, the power contract with  
15 the DC PUD for the TNT Facility along with hundreds of miners and other  
16 equipment located at the TNT Facility. He also caused the Debtor to grant to  
17 Defendant Clever Capital a security interest in the Debtor’s assets located at the  
18 TNT Facility.

19           42.    Defendant Carlson and Defendant Clever Capital also falsely  
20 purported to create a landlord-tenant relationship between Defendant Clever  
21 Capital and the Debtor, pursuant to which the Debtor would pay three times what  
22 it was paying for the TNT Leases, from approximately, \$11,600 to approximately  
23 \$30,000. In exchange for this tripled rent, the Debtor would occupy fewer

1 buildings. The foregoing agreement, the “TNT Transfer,” is attached hereto as  
2 **Exhibit E.**

3 43. Upon information and belief, on or about the Petition Date, Defendant  
4 Carlson began occupying a portion of the TNT Facility without permission or  
5 right.

6 44. On December 21, 2018, six weeks after purporting to be the Debtor’s  
7 “landlord” at the TNT Facility, Defendant Clever Capital represented to the  
8 Washington Secretary of State in its Annual Report under penalty of perjury that it  
9 held no interest of any kind in any real estate, including leasehold interests. A  
10 copy of the foregoing report is attached hereto as **Exhibit F.**

11 45. On April 19, 2019, Defendant Clever Capital filed a proof of claim  
12 (Claim No. 320) asserting the right to payment of \$259,055.66 for “rent” and  
13 other landlord related expenses at the TNT Facility even though (1) Defendant  
14 Clever Capital has no real estate interests of any kind, according to the sworn  
15 public record, and (2) the TNT Leases had already been assigned to the Debtor.

16 46. On April 19, 2019, Defendant Carlson filed a proof of claim (Claim  
17 No. 319) asserting the right to payment of \$1,359,891.59, pursuant to the  
18 Addendum, despite the fact that he has already received \$2,378,412.75 from the  
19 Debtor and the purchase price for the Debtor’s assets, including the Moses Lake  
20 Facility and the TNT Facility, was \$1 million.

21 47. On April 19, 2019, Defendant Carlson filed a proof of Claim (Claim  
22 No. 319) asserting the right to payment of \$13,575.10 that he allegedly owes to a  
23 third party as a guarantor of the Debtor but has not even paid.

1 **JURISDICTION AND VENUE**

2 48. The Bankruptcy Court has jurisdiction over this Complaint pursuant  
3 to 28 U.S.C. § 1334. The statutory predicates for this Complaint are 11 U.S.C.  
4 §§ 105(a), 547, 548, 542(e), 544(a), 550(a) and Rule 65 of the Federal Rules of  
5 Civil Procedures, incorporated herein as modified, by Rules 7065 of the Federal  
6 Rules of Bankruptcy Procedure.

7 49. Venue is appropriate pursuant to 11 U.S.C. § 1408(2).

8 **PRAYER FOR RELIEF**

9 **FIRST CLAIM FOR RELIEF**

10 *Avoid and Recover Intentional Fraudulent Transfer – the TNT Transfer*  
11 *11 U.S.C. §§ 548(a)(1)(A) and 550(a)*  
*(Against Defendants Clever Capital and Carlson)*

12 50. Plaintiff incorporates herein by reference all preceding paragraphs  
13 asserted herein as if set forth fully herein.

14 51. The TNT Transfer was a transfer of an interest of the Debtor in  
15 property.

16 52. The TNT Transfer was an obligation incurred by the Debtor.

17 53. The TNT Transfer was made and the related obligations were incurred  
18 by the Debtor on or within two (2) years of the Petition Date.

19 54. The TNT Transfer was made with the actual intent to hinder, delay, or  
20 defraud any entity to which the Debtor was or became indebted, on or after the  
21 date of the TNT Transfer.

22 55. Before the transfer was made or obligation was incurred, the Debtor  
23 had been sued or threatened with suit.

1           56.     The transfer was of substantially all the Debtor's assets at the TNT  
2 Facility.

3           57.     Debtor's former management has absconded.

4           58.     At all times material herein, Defendant Carlson was and is an insider  
5 of the transferee, Defendant Clever Capital, and of the transferor, the Debtor.

6           59.     At all times material herein, Defendant Carlson was and is a fiduciary  
7 of the Debtor.

8           60.     The Debtor has removed or concealed assets. An estimated \$200,000,  
9 possibly more, has been earned after the Petition Date and not accounted for.

10          61.     Defendant Carlson has attempted to conceal the true nature of the  
11 TNT Transfer by falsely claiming that Defendant Clever Capital, which owns no  
12 real estate of any kind, is the Debtor's "landlord" at the TNT Facility.

13          62.     The value of the consideration received by the Debtor was not  
14 reasonably equivalent to the value of the asset transferred or the amount of the  
15 obligation incurred pursuant to the TNT Transfer. It purported to triple the  
16 Debtor's rent under the TNT Leases for few buildings than the Debtor leased  
17 previously. This rent provision has already generated a claim by Defendant Clever  
18 Capital (Claim No. 320) demanding the sum of \$259,055.66. This purported  
19 obligation standing alone far exceeds the approximately \$86,000 in consideration  
20 that is recited in the TNT Transfer agreement. The power contract, the miners and  
21 their electrical systems are also worth far more than the \$86,000 described in the  
22 TNT Transfer agreement.

1           63.    The Debtor was insolvent or became insolvent shortly after the TNT  
2 Transfer was made and the obligations incurred.

3           64.    The TNT Transfer occurred in the context of substantial debt arising  
4 from the unregistered securities offering that Defendant Carlson actively and  
5 vigorously promoted as Chief Executive Officer of the Debtor and from the  
6 Debtor's unsuccessful and allegedly fraudulent business activities.

7           65.    In addition, and not by way of limitation, upon information and belief  
8 the TNT Transfer was made in anticipation of a money judgment, settlement, civil  
9 penalty, equitable order, or criminal fine which the Debtor believed would be  
10 incurred by a violation of the securities laws (as defined in section 3(a)(47) of the  
11 Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities  
12 laws, or any regulation or order issued under Federal securities laws or State  
13 securities laws; or fraud, deceit, or manipulation in a fiduciary capacity or in  
14 connection with the purchase or sale of any security registered under section 12 or  
15 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l and 78o(d)) or under  
16 section 6 of the Securities Act of 1933 (15 U.S.C. 77f).

17           66.    Defendant Clever Capital is the initial transferee of the TNT Transfer.

18           67.    Upon information and belief, Defendant Carlson is a person for whose  
19 benefit the TNT Transfer was made and, as such, is an initial transferee.

20           68.    Upon information and belief, John Does 1 through 15 are the  
21 immediate or mediate transferees of the TNT Transfer.

22           69.    Wherefore, the TNT Transfer should be avoided and recovered for the  
23 benefit of the estate.

1 **SECOND CLAIM FOR RELIEF**

2 *Avoid and Recover Constructive Fraudulent Transfer – the TNT Transfer*  
3 11 U.S.C. §§ 548(a)(1)(B), 550(a)  
4 (Against Defendants Clever Capital and Carlson)

5 70. Plaintiff incorporates herein by reference all preceding paragraphs  
6 asserted herein as if set forth fully herein.

7 71. The Debtor received less than a reasonably equivalent value in  
8 exchange for the TNT Transfer.

9 72. The Debtor was insolvent on the date that the TNT Transfer was made  
10 and/or became insolvent as a result of the TNT Transfer.

11 73. At the time of the TNT Transfer, the Debtor was engaged in business  
12 or a transaction, or was about to engage in business or a transaction, for which any  
13 property remaining with the Debtor was an unreasonably small capital.

14 74. The TNT Transfer was made within two (2) years of the Petition Date.  
15 Indeed, it was made three days before the Petition Date.

16 75. Defendant Clever Capital is the initial transferee of the TNT Transfer.

17 76. Upon information and belief, Defendant Carlson is the person for  
18 whose benefit the TNT Transfer was made and, as such, is an initial transferee.

19 77. Upon information and belief, John Does 1 through 15 are the  
20 immediate or mediate transferees of the TNT Transfer.

21 78. Wherefore, the TNT Transfer should be avoided and recovered for the  
22 benefit of the estate.

1 **THIRD CLAIM FOR RELIEF**

2 *Avoid and Recover Intentional Fraudulent Transfer - the TNT Transfer*  
3 RCW 19.40.041(1)(A) and 11 U.S.C. §§ 544(a), 550  
(Against Defendants Clever Capital and Carlson)

4 79. Plaintiff incorporates herein by reference all preceding paragraphs  
5 asserted herein as if set forth fully herein.

6 80. The TNT Transfer occurred within four (4) years before the Petition  
7 Date.

8 81. At all times material herein, the Trustee has the rights and powers of a  
9 hypothetical lien creditor and hypothetical judgment creditor.

10 82. The Debtor made the TNT Transfer with actual intent to hinder, delay  
11 or defraud any creditor of the Debtor.

12 83. Wherefore, the TNT Transfer should be avoided and recovered for the  
13 benefit of the estate.

14 **FOURTH CLAIM FOR RELIEF**

15 *Avoid and Recover Constructive Fraudulent Transfer- the TNT Transfer*  
16 RCW 19.40.041(1)(B) and 11 U.S.C. §§ 544(a), 550  
(Against Defendants Clever Capital and Carlson)

17 84. Plaintiff incorporates herein by reference all preceding paragraphs  
18 asserted herein as if set forth fully herein.

19 85. The TNT Transfer occurred within four (4) years before the Petition  
20 Date.

21 86. The Debtor did not receive a reasonably equivalent value in exchange  
22 for the TNT Transfer.







**SEVENTH CLAIM FOR RELIEF**

*Turnover*

11 U.C.S. § 542(e)

(Defendant Carlson and Defendant Clever Capital)

1  
2  
3       103. Plaintiff incorporates herein by reference all preceding paragraphs  
4 asserted herein as if set forth fully herein.

5       104. Pursuant to the Sale and Assignment Agreement the TNT Leases were  
6 assigned to Giga Watt.

7       105. By occupying the TNT Facility, Defendant Carlson and Defendant  
8 Clever Capital are exercising possession and control of property that the Trustee  
9 may use, sell, or lease under section 363 of this title.

10       106. In the alternative, the equity of the case compels the imposition of a  
11 constructive trust upon the TNT Transfer, Building C, the office, and the TNT  
12 Leases. Defendant Carlson, a fiduciary of the Debtor, grabbed the TNT Facility  
13 for himself three days before the Petition Date and invented a lie that his affiliate  
14 was the Debtor's landlord at the TNT Facility. Then he filed a proof of claim to  
15 recover "rent" as this phantom landlord and another proof of claim to receive  
16 another \$1 million plus interest towards the purchase price of the TNT Facility  
17 even though (i) he had just taken back the TNT Facility pursuant to a fraudulent  
18 transfer and (ii) he has already received more than the purchase price from the  
19 Debtor, \$2,378,412.75. Equity compels the imposition of a constructive trust upon  
20 the entire TNT Facility.  
21  
22  
23



1 114. The Trustee objects to Claim No. 318 on the ground that it is not  
2 supported by sufficient evidence and is subject to equitable subordination and  
3 mandatory subordination.

4 115. Wherefore, the Trustee requests that Claim No. 318 be disallowed in  
5 its entirety.

6 **OBJECTION TO CLAIM NO. 319**

7 116. Plaintiff incorporates herein by reference all preceding paragraphs  
8 asserted herein as if set forth fully herein.

9 117. Plaintiff objects to Claim No. 319 on the ground that it is not  
10 supported by sufficient evidence and is subject to equitable subordination and  
11 mandatory subordination.

12 **OBJECTION TO CLAIM NO. 320**

13 118. Plaintiff incorporates herein by reference all preceding paragraphs  
14 asserted herein as if set forth fully herein.

15 119. Plaintiff objects to Claim No. 320 on the ground that it is not  
16 supported by sufficient evidence and is subject to equitable subordination and  
17 mandatory subordination.

18 120. Wherefore, the Trustee requests that Claim No. 320 be disallowed in  
19 its entirety.

20 **RESERVATION OF RIGHT**

21 121. The Trustee does not waive and instead expressly reserves all rights to  
22 amend all claims for relief and objections set forth herein, including without  
23 limitation to (i) avoid in whole or in part the transfer of the \$2,378,412.75 that the  
24 Complaint for Avoidance and Recovery of  
25 Fraudulent Transfers and/or Preferential and/or, etc. - Page 21

1 Debtor transferred to Defendant Carlson in a series of payments on August 18,  
2 2017, August 21, 2017 and March 26, 2018 as intentional and/or constructive  
3 fraudulent transfers, (iii) assert additional claims of relief for, among things,  
4 violations of the securities laws, conversion, trespass, and fraud and (iv) object to  
5 any of the claims filed in this case by any of the Defendants on any additional or  
6 other basis than is set forth herein.

7 **CONCLUSION**

8 Wherefore, the Trustee prays for judgment against the Defendants and in  
9 favor of the Trustee, for monetary relief, injunctive relief, attorneys fees and costs,  
10 as allowed by law, and for such other relief as the Court deems appropriate and  
11 just.

12 Dated: April 22, 2019

CKR LAW LLP

13 /s/ Pamela M. Egan

14 Pamela M. Egan (WSBA No. 54736)

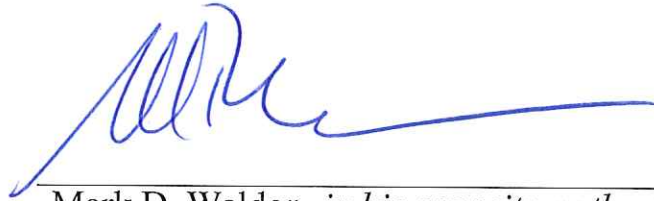
15 *Attorneys for Mark D. Waldron, Chapter 11*  
16 *Trustee*

**VERIFICATION**

1  
2 I, Mark D. Waldron, am the duly-appointed Chapter 11 Trustee in the  
3 above-captioned bankruptcy case. I have reviewed the Complaint. I believe the  
4 allegations set forth herein are true based upon my personal knowledge and  
5 where applicable based on my investigation and review of documents in this case.

6 I declare under penalty of perjury that the foregoing is true.

7 Signed this 22<sup>nd</sup> day of April 2019 in Tacoma, Washington.

8  
9  
10 

11 

---

Mark D. Waldon, *in his capacity as the duly*  
*appointed Chapter 11 Trustee*

Exhibit A  
*Sale and Assignment Agreement*



## BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

This bill of sale and assignment and assumption agreement (“Agreement”) is entered by and between Giga Watt, Inc., a Washington corporation (the “**Buyer**”), and Enterprise Focus, Inc., a Washington corporation, dba megabigpower.com, which is owned by David M. Carlson, Jeffrey A. Field, and Rob Taves (collectively the “**Owners**”), and David M. Carlson, individually (collectively and jointly the “**Seller**”).

The Seller owns and operates block-chain business known as MegaBigPower located at 1250 N Wenatchee Ave H147, Wenatchee, Washington 98801 (the “**Business**”), with facilities located at 474 Highline Drive, Wenatchee, Washington 98802, in buildings designated A, B, C and H (the “**Wenatchee**”) and 7906 Randolph Road, Moses Lake, Washington, 98837 (“**Moses Lake**”).

The Seller has agreed to sell and the Buyer has agreed to purchase the Purchased Assets (as defined below).

The Owners collectively own 100% of the outstanding equity of the Seller and have agreed to join in this agreement for the purpose of making certain representations and agreements.

Therefore, the parties agree as follows:

1. Sale of the Purchased Assets; Assumption of the Assumed Contracts. Subject to the provisions set forth in this agreement, as of January 1, 2017 (the “**Effective Date**”), and in exchange for the valuable and equitable consideration set forth in paragraph 3 of this Agreement, the Seller hereby sells, conveys, assigns, and transfers to the Buyer the assets set forth on Schedule 1 (the “**Purchased Assets**”) free and clear of any and all liens and encumbrances, and the Buyer hereby accepts the sale, conveyance, assignment, and transfer of the Purchased Assets and assumes the Buyer’s obligations under the contracts listed on Schedule 1 (the “**Assumed Contracts**”).

2. No Other Assumption of Liabilities. Except for the Assumed Contracts, the Buyer does not assume any obligation or liability of the Seller or the Owner, and the Seller or the Owner or both, as applicable, will continue to be liable for any and all liabilities of the Seller or the Owner or both. The Buyer does not assume any liability under the Assumed Contracts arising before the Effective Date. The Seller will not be responsible for any liability that arises from the Buyer’s operation of the Business after the Effective Date.

3. Consideration. In exchange for the assets of the Seller sold, conveyed, assigned and transferred under this Agreement, the Buyer agrees to provide a consideration in the amount of \$3,000,000 U.S. Dollars:

- a. First payment in the amount of \$21,000 on January 15, 2017;
- b. Second payment in the amount of \$21,000 on February 15, 2017
- c. One payment in the amount of \$958,000 on March 15, 2017;
- d. One payment in the amount of \$1,000,000 on September 15, 2017; and
- e. Final payment in the amount of \$1,000,000 on March 15, 2018.

4. Security of Performance. The Buyer’s performance shall be secured by 3,000,000 WTT tokens (the only type of tokens issued) placed to the Seller’s account on March 22, 2017. Such WTT tokens shall not become the property of the Seller and shall not be sold, assigned, conveyed or transferred in any matter to the third parties unless the Buyer fails to perform its obligations under this Agreement.

5. Method of Payment. All payments shall be made in BTC (at the exchange rate published by Coinbase at the time of transfer) to the wallet address indicated by the Seller. Due to the difference in time and bank processing procedure, the payments shall be considered timely as long as the Buyer initiates a transaction on or before the due date. Upon receipt of each payment, the Seller shall transfer the equal amount of tokens back to the Buyer to the account provided by the Buyer.

6. Business Operation Revenue. The Buyer shall be entitled to all revenues generated with the use of Purchased Assets after the Effective Date. The Buyer shall be responsible for the ordinary and necessary expenses required to use the assets and generate revenue.

7. Representations and Warranties. The Seller and the Owners, jointly and severally, represent and warrant to the Buyer that all of the representations and warranties set forth on Schedule 2 are true and correct in all respects as of the date of this agreement.

8. Covenant Not to Compete; Nonsolicitation; Confidentiality. The Seller and the Owners each agree to abide by the noncompetition, nonsolicitation, and confidentiality obligations set forth on Schedule 3.

9. Proration of Expenses. Any costs associated with operating the Business in the ordinary course, including but not limited to payroll expenses and utility or similar charges, payable with respect to the period in which the Effective Date falls will be prorated based on the actual number of days applicable to the pre-Effective Date and post-Effective Date occupancy and use. The Seller will be liable for the prorated amount of all such expenses during the period through the Effective Date, and the Buyer will be liable for the prorated amount of all such expenses during the period after the Effective Date.

10. Default. Seller shall be in default of this Agreement upon the occurrence of any of the following events: (i) Purchased Assets shall be found defective after the Effective Date of this Agreement; (ii) Purchased Assets shall become subject of any third party claims, which arise out of the events preceding the Effective Date; (iii) Purchase Assets shall become subject to injunction, arrest, or any other actions that limit Buyer's use of the Purchased Assets; (iv) Seller shall file for bankruptcy or insolvency, whether voluntary or involuntary, and Purchased Assets become part of the Seller's bankruptcy estate; and (v) any other limitations or restrictions on the use of Purchased Assets, which shall arise from the events preceding the Effective Date.

11. Remedies. In the event of default, Buyer, at its own discretion, may use any of the following remedies: (i) stop payments to Seller until default is cleared, (ii) satisfy the third party claims against the Purchased Assets and deduct this amount from the outstanding balance due to Seller; and (iii) use any and all remedies in law and in equity to protect its rights under this Agreement. Seller shall return all outstanding tokens to Buyer until the default is cleared. Seller agrees to be liable to pay all costs and expenses, including all reasonable attorney fees, incurred by Buyer in connection with enforcement of this Agreement.

12. Survival. Except as otherwise provided in this agreement, the representations and promises of the parties contained in this Agreement, including but not limited to Schedules 2 and 3, shall survive (and not be affected in any respect by) the statute of limitations as well as any investigation conducted by any party and any information which any party may receive.

13. Governing Law; Venue. The Agreement shall be governed by and construed in accordance with the law of the state of Washington.

14. Construction. The parties to this Agreement each acknowledge that: (i) this Agreement and its reduction to final written form are the result of good faith negotiations; (ii) the Parties

carefully reviewed and examined this Agreement with their own independent legal counsels before the execution; and (iii) all Parties had the opportunity to and did in fact participate in drafting the final terms of this Agreement.

15. Assignment. No party may assign either this agreement or any of its rights, interests, or obligations hereunder without the prior written approval of each other party, except that the Buyer may assign any or all of its rights under this agreement, in whole or in part, without obtaining the consent or approval of any other party, (1) to any current or future affiliate of the Buyer, (2) to any entity into which the Buyer may be merged or consolidated, (3) in connection with any acquisition, restructuring, merger, conversion, or consolidation to which the Buyer may be a party, or (4) to a lender to the Buyer or its affiliates as collateral security for current or future obligations owed by the Buyer or its affiliates to the lender.

16. Notices. All notices and other communications under this agreement must be in writing and given by first class mail, return receipt requested, nationally recognized overnight delivery service, such as Federal Express, or personal delivery against receipt to the party to whom it is given, in each case, at the party's address set forth in this section 11 or such other address as the party may hereafter specify by notice to the other parties given in accordance with this section. Any such notice or other communication will be deemed to have been given as of the date the applicable delivery receipt for such communication is executed as received or in the case of mail, three days after it is mailed.

If to the Seller or the Owners:

1250 N Wenatchee Ave H147  
Wenatchee, Washington 98801

If to the Buyer

170 S. Lincoln, Ste. 100  
Spokane, Washington 99201

17. Cancellation or Modification. This Agreement may be cancelled or modified only by a separate written Agreement signed by both the Seller and the Buyer.

18. Miscellaneous. This agreement contains the entire agreement between the parties with respect to the subject matter hereof and all prior negotiations, writings, and understandings relating to the subject matter of this agreement are merged in and are superseded and canceled by, this agreement. This agreement may not be modified or amended except by a writing signed by the parties. This agreement is not intended to confer upon any person or entity not a party (or their successors and permitted assigns) any rights or remedies hereunder. This agreement may be signed in any number of counterparts, each of which will be an original with the same effect as if the signatures were upon the same instrument, and it may be signed electronically. The captions in this agreement are included for convenience of reference only and will be ignored in the construction or interpretation hereof. If any date provided for in this agreement falls on a day which is not a business day, the date provided for will be deemed to refer to the next business day. Any provision in this agreement that is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction will be ineffective only to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof; provided, however, that the parties will attempt in good faith to reform this agreement in a manner consistent with the intent of any such ineffective provision for the purpose of carrying out such intent. The Exhibits and Schedules to this agreement are a material part of this agreement and are incorporated by reference herein.

Each of the undersigned has caused this bill of sale and assignment and assumption agreement to be duly executed and delivered as of the date first written above.

**BUYER:**

Giga Watt, Inc., a Washington corporation

\_\_\_\_\_  
By: Nikolay Evdokimov, President

\_\_\_\_\_  
Date:

**SELLER:**

Enterprise Focus, Inc., a Washington corporation

\_\_\_\_\_  
By: David M. Carlson, CEO

\_\_\_\_\_  
Date:

\_\_\_\_\_  
David M. Carlson, individually

\_\_\_\_\_  
Date:

**OWNERS:**

\_\_\_\_\_  
David M. Carlson

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Jeffrey A. Field

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Rob Taves

\_\_\_\_\_  
Date:

## Schedule 1

### **Purchased Assets**

“**Purchased Assets**” means all of the assets of the Seller primarily related to the operation of the Business, including the following assets, but specifically excluding the Excluded Assets:

a) all books, records, mailing lists, customer lists, advertising and promotional materials, equipment maintenance records, and all other documents used by the Seller in the Business (whether in hard copy or electronic form);

b) all computers and related software, websites, office equipment, and office supplies used by the Seller in the Business;

c) fixtures and furniture used by the Seller in the Business;

d) phone system and any other technological equipment used by the Business;

e) all equipment, materials, inventory, stock, supply and technology used by the Business;

f) Wenatchee and Moses Lake leases and facility infrastructure (Exhibit 1);

g) equipment of the Wenatchee unused power infrastructure (Exhibit 2);

h) inventory and stock (Exhibit 3);

i) digital assets (Exhibit 4);

j) the trade names “Mega Big Power” and “MegaBigPower” and associated goodwill and all copyrights, patents, trademarks, trade secrets, brands, and other intellectual property and associated goodwill;

k) conceptual design of the mining pods, related technology, intellectual property and all rights associated with it;

l) all intellectual property, including software, created by the Seller within 3 years prior to the Effective Date;

m) the internet domain name www.megabigpower.com and all variants owned by the Seller and/or used in the Business; and

n) all social media accounts, including, without limitation Facebook, Google Plus, LinkedIn, Twitter and YouTube accounts, used in the Business.

“**Excluded Assets**” means the following:

a) all cash of the Seller on the Effective Date;

b) all accounts receivable of the Seller outstanding at the Effective Date; and

c) all accounts payable of the Seller outstanding at the Effective Date.

“**Assumed Contracts**” means the following contracts:

a) lease agreements for the Eller St house/office, building A, building B, building C, building H, and Moses Lake facility;

b) co-location and/or service agreements, hosting contracts, and other legal agreements for hosting of mining equipment between the Seller and its customers; and

c) contracts with PUD.

## Schedule 2

## Representations and Warranties

1. **Capitalization.** The only equity owners of the Seller is the Owners and no person has any existing right to purchase any equity of the Seller.

2. **Consents.** The Seller is not required to obtain the consent of any party to a contract or any governmental entity in connection with the execution, delivery, or performance by it of this agreement or the consummation of the transactions contemplated in this agreement.

3. **Compliance with Laws.** With respect to the operation of the Business by the Seller before the Effective Date, the Seller and its employees and officers are and at all times have been in compliance in all material respects with each law applicable to the Seller or to the operation of the Business.

4. **Taxes.** The Seller has, in respect of the Business, paid all taxes that have become due under tax returns or under any assessment that has become payable or for which the Buyer may otherwise have any transferee liability. All monies required to be withheld by the Seller from employees for income taxes and social security and other payroll taxes have been collected or withheld and either paid to the respective governmental bodies or set aside in accounts for such purpose.

5. **Litigation.** There are no claims or suits pending or, to the Seller's or Owners' knowledge, threatened by or against the Seller (1) relating to or affecting the Business or Purchased Assets or (2) by or against any employee of the Seller relating to or affecting the Business or Purchased Assets. There are no judgments, decrees, orders, writs, injunctions, rulings, decisions, or awards of any court or governmental body to which the Seller is a party or is subject with respect to any of the Purchased Assets is subject.

6. **Financial Information; Ordinary Course.** The financial information the Seller provided to the Buyer is accurate, correct, and complete, is in accordance with the books and records of the Seller, and presents fairly the results of operation and financial condition of the Seller's Business. The Seller has operated the Business in the ordinary course before the Effective Date.

7. **Title; Condition of Purchased Assets.** The Seller has good and marketable title to all of the Purchased Assets free and clear of all liens and encumbrances. Pursuant to this agreement, the Seller conveys to the Buyer good and marketable title to all of the Purchased Assets, free and clear of all liens and encumbrances. The inventory is salable in the ordinary course of business and consists of items that are current, standard, first-quality, and fit for the intended purpose. All equipment and signs are in working order and the premises will pass all inspections necessary to conduct the Business.

8. **Product Warranties.** The Seller provides no express or implied warranty, indemnification, or guarantee to any of its customers at any time in excess of the warranty provided by the applicable product manufacturer. Each product sold or service rendered by the Seller is and has been sold or rendered, as applicable, in conformity with all applicable contractual commitments and all express and implied warranties, and the Seller does not have any liability (and there is no basis for any present or future proceeding) for replacement or repair thereof or other damages, liabilities, or obligations in connection therewith.

9. **Capacity of Purchased Assets.** The Seller has 2.5MW in Wenatchee, including 1.9MW usable capacity (after safety buffer), and 2.5MW in Moses Lake, out of which only 2MW is being used as of the Effective Date of this Agreement. The Seller also has additional equipment capable of delivering 1MW (800kW after security derate) of power capacity.

### Schedule 3

#### **Covenant Not to Compete; Non-Solicitation; Confidentiality**

1. The Seller and the Owners covenant and agree that neither the Seller nor the Owners will: (1) for a period of 2 years following the Effective Date own, manage, or be employed by (whether as an employee or independent contractor) a competing business within 500 miles of the Business; (2) or for a period of 2 years following the Effective Date recruit or employ (whether as an employee or independent contractor) any of the Business's current employees or independent contractors.

2. The Seller and the Owners shall hold the Confidential Information in confidence and shall not use the Confidential Information for any purpose other than in furtherance of the Buyer's operation of the Business without the Buyer's express written consent. The Seller and the Owners recognize that Confidential Information involves one of the Buyer's valuable and unique assets. "**Confidential Information**" means information directly or indirectly involving the Business that is not available or open to the public generally.

3. The Seller and the Owner each has carefully read and considered the provisions of this Schedule 3 and, having done so, agrees that the restrictions set forth herein are fair and reasonable given the terms and conditions of this agreement, the nature of the Seller's and its affiliates' business, the area in which the Seller and its affiliates market their products and services, and the consideration being provided pursuant to this agreement. In addition, the Seller and the Owners specifically agree that the length, scope, and definitions used in the covenant not to compete and other restrictions set forth in this Schedule 3 are fair and reasonable.

4. The Seller and the Owner each acknowledges and agrees that its breach of any of the agreements in this Schedule 3 would result in irreparable damage and continuing injury to the Buyer. Therefore, in the event of any breach or threatened breach of such agreements, the Seller and the Owner each agrees that the Buyer will be entitled to an injunction from any court of competent jurisdiction enjoining such person or entity from committing any violation or threatened violation of those agreements.



**Exhibit 1 to Schedule 1**

**Wenatchee Leases & Facility Infrastructure:**

H building	1.75MW
A building	Storage
B building	225kW
C building	225kW
Eller St House/Office	

MBP Electrical Infrastructure generally consists of tenant improvements to leasehold property. It represents a long term usable capital investment that is producing income.

Typical components facility infrastructure are:

- Deposits w PUD
- Deposits with Landlord for buildings A, D, C, and H
- Underground conduits/trenches
- Power pole
- Transformers
- Vaults
- Secondary power (1" conductors)
- 2400 Amp Load Centers (main disconnect)
- Distribution conductors/conduits
- Distribution breaker panels (400 Amp)
- 30A Breakers in each panel (typ. 48)
- Branch circuit wiring
- Cable tray
- Twistlock Power Receptacles
- Network wiring to racks
- Security System
- Security Door
- Security Cameras
- Filter Housings & Filters
- Supplemental Fans
- Evaporative (Swamp) Coolers

**Moses Lake Lease and Facility Infrastructure:**

Deposit with Landlord		
Racking	156	
PDU's	625	
Network Switches (in rack)	65	16-24 port switches



**Exhibit 2 to Schedule 1**

MBP has some uninstalled power infrastructure, ready for a project. This equipment is new and never used. It was installed into a project in Chelan County, and then removed as a result of policy changes in that county.

1MW system:

480V 225kW dry type transformer	4
480V mains breakers	2
208V Load Centers (400A disconnects)	4
400 Amp Breaker Panels w/breakers	12
Bus duct, conduits	

Rock Island

Cable Tray, Breakers, Branch Circuits for 300kW currently installed at Rock Island

### Exhibit 3 to Schedule 1

Meanwell Power Tails V1 (12 gage speaker wire @ 18")	1931
Meanwell Power Tails V2 (10 gage water resistant wire @ 18")	569
Meanwell Power Cables (3x 18 gage wire with single exposed end and C-14 Plug @ varried lengths)	4662
C13-C14 Power Cable (3x 18 gage wire)	2465
Version 2.2 Bitfury H-card PCI (Working)	219
Version 1.2 Bitfury H-card (Working)	2674
Version 1.2 Bitfury H-card (Dead)	379
Version 3.0 Bitfury M-card PCI (Working)	45
Version 3.0 Bitfury M-card PCI (Dead)	115
SanDisk 4GB SD memory card	2431
SanDisk 8GB Micro SD memory card	244
SanDisk Micro SD to SD memory card adaptor	147
HP Envy Desktop	4
HP Pavilion Desktop	1
Dell Inspiron Desktop	5
Raspberry Pi version B (working)	269
Raspberry Pi version B (Dead)	112
Raspberry Pi version B+ (working)	51
Lasko 20' fan	820
Category 5e Network Cable (average)	71429 feet
Version 2.3 Bitfury M-card (working)	44
Version 2.3 Bitfury M-card (Dead)	18
Version 1.0 Bitfury H-card PCI Octal (Working)	283
Version 1.0 Bitfury M-Card (Working)	146
Version 1.0 Bitfury M-Card (Dead)	45
PDU in stock/unused (various)	1679
APC Power Distrobution Unit (12 Socket)	6
APC Power Distrobution Unit (16 Socket)	91
APC Power Distrobution Unit (24 Socket)	220
Avocent Power Distrobution Unit (20 Socket)	15
Meanwell 600 watt power supply	1165
Meanwell 350 watt power supply	1517
Meanwell 450 watt power supply	1821
MSI z77a-gd65 Motherboard	14
Gigabyte G1 Sniper Motherboard	15
ASRock z77 Professional M Fatal1ty Motherboard	3
ASRock z77 Pro4-m Motherboard	25
Gigabyte gv-r795wf3-3gd revision 2.0	81
MSI r7950 Twin FrozrIII 3gd5/oc	15
HIS Radeon HD 7950 3GB	5

MSI r9 280x Gaming 3G	18
Sapphire HD 7950 3GB GDDR5 Dual-x	13
Sapphire Vapor-X 9r 280X 3G GDDR5	10
Sapphire Vapor-X HD 7950 3G GDDR5	1
NVIDIA GeForce GTX 780 3GB GDDR5	2
ASUS GTX780-dc2oc-3gd5	20
Sapphire r9 290x 4GB GDDR5	1
G.Skill Sniper DDR3 1330 (8GB 2x4GB)	29
Kingston KHX 1600c9d3k2/8gx (8GB 2x4GB)	28
Intel i5-4440s2.8GHz 6MB cache 65w	57
SanDisk 64GB Solid State Drive	7
Kingston 60GB Solid State Drive	31
Western Digital WD3200bpvt	28
Version 2.2 Bitfury H-card PCI (Dead)	313
Version 1.0 Bitfury H-card PCI Octal (Dead)	156
Power Cable C-19 to C-14 (3x18 gage)	20
USB Extention cables (6ft.)	535
Prototype M-6 Boards (Firebomb boards)	153
C-14 to 5-15 1 foot adapter cable	337
4 port USB wall adaptor	204
Molex to 3-pin x 6 port adaptor (Fan adaptor)	1000
3-socket groundless extention cable	190
16 Port Switch (various vendors)	383
24 Port Switch (various vendors)	75
Boxes (stack of 25)	32
USB Extention cables (3ft.)	415
Dead 1600 watt computer power supply	1
Dead 1200 watt computer power supply	49
Dead 850 watt computer power supply	2
Dead 600 watt computer power supply	64
80mm Stealth case fans	3500
1600 watt computer power supply	10
1200 watt computer power supply	473
800 watt computer power supply	12
600 watt computer power supply	885
500 watt computer power supply	104
48 port main switch	13
M-6 48 slot PCI board (working)	23
M-6 48 slot PCI board (dead)	25
M-6 PCI BioInfo Card (working)	12
M-6 PCI BioInfo Card (dead)	114
3 socket adaptor	143
Racks	287

rolling step ladders	4
utility carts	4
folding tables	8
pallet jacks	4
Forklifts	2
Ford F650 (title attached)	1
various tools, chop saw, shop vac	
D-Crates	7
Big Blue Ventilation Fans	20
Large Pallet Racking (Rock Island)	2
Filter Housings	50
Washable anti-static filters	85
Evap Coolers	6

### Exhibit 4 to Schedule 1

<u>Item</u>	<u>Description</u>
Customer Account Dashboard	Basic password protected client login web system. Collects performance & payout data from pool & wallet for simple display to clients
Payout Splitter System	Payout splitter is a cron job/database tool that splits an incoming payment by percentage according to client settings stored in database, then sends appropriate BTC to target addresses.
BitMain Data Collector	PHP script to gather data from miners, in order to identify problem rigs
API integrations	Code to gather api data from SlushPool, AntPool, Coinapult, etc
<a href="http://MegaBigPower.com">MegaBigPower.com</a>	Domain, brand & web content
Customer Lists, Email Inquiries, etc	Retail Customers from 2013, Inquiries for buyback & franchise programs
Private Keys	Addresses that mined about 35,000 BTC (can be checked on Blockchain) - for clarity, no BTC is being sold hereby
Pod Design	
Vanity Bitcoin Address Generation/Password Recovery System	Address Miner (brute force BTC address generation), database, web front end. Allows users to specify custom addresses to mine for (e.g. 1megabigpower729DQdG7qrNMbmvYgmekh) . Farms those targets out to GPUs for generation. Can also be used to create a farm for password recovery

**Exhibit B**

*Addendum*

*[David Carlson's signatures removed in order to file;  
ECF identified as impermissible annotation]*

## ADDENDUM

### to the Bill of sale and assignment and assumption agreement dated January 1, 2017

January 15, 2017

This Addendum (“**Addendum**”) is entered by and between Giga Watt, Inc., a Washington corporation (the “**Buyer**”), and Enterprise Focus, Inc., a Washington corporation, dba megabigpower.com, which is owned by David M. Carlson, Jeffrey A. Field, and Rob Taves (collectively the “**Owners**”), and David M. Carlson, individually (collectively and jointly the “**Seller**”), referred to together as the **Parties**.

Whereas,

- a) The Parties entered into Bill of sale and assignment and assumption agreement dated January 1, 2017 (the “**Agreement**”) regarding sale of certain assets listed in Schedule 1 to the Agreement;
- b) The Buyer has conducted a preliminary due diligence of the Assets,

Therefore, the Parties agree as follows:

1. Change of Consideration Amount: The Parties decided to change the amount of Consideration in Section 3 of the Agreement as follows:

3. Consideration. *In exchange for the assets of the Seller sold, conveyed, assigned and transferred under this Agreement, the Buyer agrees to provide a consideration in the amount of US\$1,000,000 (one million U.S. Dollars) (the “**Consideration Amount**”).*

2. Change of Method of Payment: The Parties decided to change the method of payment in Section 5 of the Agreement as follows:

5. Method of Payment. *Payment should be made within eight (8) months following the date of this Addendum in a legal tender of the United States of America in immediately available funds to an account designated by the Seller. If the Seller has not received the payment in full on or before September 15, 2017 (the “**Due Date**”), an interest rate of 22.73% per year shall be applied to the Consideration Amount starting from the day following the Due Date.*

3. Entire Agreement. This Addendum constitutes the entire agreement between the parties in relation to the subject matter of this Addendum, and supersedes all previous agreements (oral or written in any form whatsoever), arrangements and understandings between the Parties.

4. Governing Law. This Addendum shall be governed by and construed in accordance with the law of the State of Washington.

5. Arbitration. All disputes arising out of or in connection with the Addendum and the Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat of the arbitration shall be San Francisco, CA, USA. The language of arbitration proceedings shall be English.

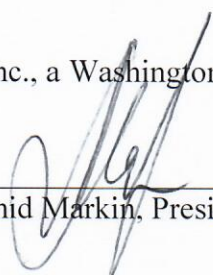


Each of the undersigned has caused this Addendum to be duly executed and delivered as of the date first written above.

**BUYER:**

Giga Watt, Inc., a Washington corporation

\_\_\_\_\_  
By: Mr. Leonid Markin, President



\_\_\_\_\_  
Date: 01/15/2017

**SELLER:**

Enterprise Focus, Inc., a Washington corporation

\_\_\_\_\_  
By: David M. Carlson, CEO

\_\_\_\_\_  
Date:

\_\_\_\_\_  
David M. Carlson, individually

\_\_\_\_\_  
Date:

**OWNERS:**

\_\_\_\_\_  
David M. Carlson

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Jeffrey A. Field

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Rob Taves

\_\_\_\_\_  
Date:



**Exhibit C**

*7.11.17 WA SOS*

*Defendant Enterprise – No Real Estate Interest*





Office of the Secretary of State  
 Corporations & Charities Division  
[www.sos.wa.gov/c\\_orps](http://www.sos.wa.gov/c_orps)



STATE OF WASHINGTON  
 DEPARTMENT OF REVENUE  
 BUSINESS LICENSING SERVICE

ENTERPRISE FOCUS, INC.  
 895 RIVERSIDE DR UNIT C239  
 WENATCHEE WA 98801-3397

Generated: Jul 11, 2017  
 Letter ID: L0003812842

**ENTERPRISE FOCUS, INC.**

**UBI: 602920329**

**Thank you for filing your annual report online**

Your annual report has been completed. Please print this copy of your annual report and receipt for your records.

Allow 14 days to receive your legal entity registration in the mail.

**Your company**

Entity name: ENTERPRISE FOCUS, INC.

UBI: 602920329

State of formation: WA

Date of formation: May-01-2009

New expiration date: May-31-2018

**Your fees**

Profit Corporation	60.00
Processing fee:	11.00
Late Renewal Penalty	25.00
Total fees:	96.00
Total payment submitted:	96.00



**Business information**

Principal place of business: 1 CAMPBELL PKWY  
EAST WENATCHEE, WA 98802-9234  
USA

Company telephone number: (509) 899-7575

Company email address: Sinden@giga-watt .com

Is the mailing address of the place of business different from the physical address above? No

Does your company own real property (including leasehold interests) in Washington? No

1. Has there been a transfer of stock, other financial interest change, or an option agreement exercised during the last 12 months that resulted in a transfer of controlling interest? No

2. Has an option agreement been executed in the last 12 months allowing for the future purchase or acquisition of the entity, that, if exercised would result in a transfer of controlling interest? No

Mailing address of principal place of business: Same as principal place of business

**Nature of business**

Type: Administratio n and Business Support Services

**Governing People**

**Address**

---

CARLSON DAVID

1250 N WENATCHEE AVE STE H #  
147  
WENATCHEE, WA 988011599



**Registered agent**

Agent type on file: Individual  
Agent name on file: DAVID CARLSON  
Agent's office street address on file: 1250 N WENATCHEE AVE STE H # 147  
WENATCHEE, WA 98801-1599  
USA  
Agent's mailing address on file: 895 RIVERSIDE DR UNIT C239  
WENATCHEE, WA 98801-3397  
USA

**Person completing this annual report**

Submitted By: Other  
Title: Agent  
Name: Sinden Harum

Annual report certification: I am the person listed above and I certify under penalty of perjury that the renewal information submitted is true and correct to the best of my knowledge. I understand that deliberately submitting false information may be punishable as a gross misdemeanor. RCW 43.07.210

**Date Submitted:** Jul 11 2017



**Exhibit D**

*10.25.18 WA SOS*

*Carlson – Governor of Giga Watt*



Filed  
Secretary of State  
State of Washington  
Date Filed: 10/25/2018  
Effective Date: 10/25/2018  
UBI #: 604 067 749

## Amended Annual Report

### BUSINESS INFORMATION

---

Business Name:

**GIGA WATT, INC.**

UBI Number:

**604 067 749**

Business Type:

**WA PROFIT CORPORATION**

Business Status:

**ACTIVE**

Principal Office Street Address:

**1 CAMPBELL PKWY STE B, E WENATCHEE, WA, 98802-9290, UNITED STATES**

Principal Office Mailing Address:

**1 CAMPBELL PKWY STE B, E WENATCHEE, WA, 98802-9290, UNITED STATES**

Expiration Date:

**12/31/2019**

Jurisdiction:

**UNITED STATES, WASHINGTON**

Formation/Registration Date:

**12/15/2016**

Period of Duration:

**PERPETUAL**

Inactive Date:

Nature of Business:

**OTHER SERVICES, DATA CENTER HOSTING AND MAINTENANCE**

**REGISTERED AGENT**     [RCW 23.95.410](#)

---

Registered Agent Name	Street Address	Mailing Address
JEFFERS, DANIELSON, SONN & AYLWARD, P.S.	2600 CHESTER KIMM RD, WENATCHEE, WA, 98801, UNITED STATES	

### PRINCIPAL OFFICE

---

Phone:

**424-542-5904**

Email:

**AK@GIGA-WATT.COM**

Street Address:

**1 CAMPBELL PKWY STE B, E WENATCHEE, WA, 98802-9290, USA**

Mailing Address:

**1 CAMPBELL PKWY STE B, E WENATCHEE, WA, 98802-9290, USA**

## GOVERNORS

Title	Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL	GIGA WATT INC	DAVE	CARLSON
GOVERNOR	INDIVIDUAL		ANDREY	KUZENNY
GOVERNOR	INDIVIDUAL		LEONID	MARKIN
GOVERNOR	INDIVIDUAL		EDUARD	KHAPTAKHAEV

## NATURE OF BUSINESS

- OTHER SERVICES
- DATA CENTER HOSTING AND MAINTENANCE

## EFFECTIVE DATE

Effective Date:

**10/25/2018**

## RETURN ADDRESS FOR THIS FILING

Attention:

Email:

Address:

## UPLOAD ADDITIONAL DOCUMENTS

Do you have additional documents to upload? **No**

## EMAIL OPT-IN

By checking this box, I hereby opt into receiving all notifications from the Secretary of State for this entity via email only. I acknowledge that I will no longer receive paper notifications.

## AUTHORIZED PERSON

I am an authorized person.

Person Type:

**INDIVIDUAL**

First Name:

**ANDREY**

Last Name:

**KUZENNY**

Title:

**DIRECTOR**

This document is hereby executed under penalty of law and is to the best of my knowledge, true and correct.

This document is a public record. For more information visit [www.sos.wa.gov/corps](http://www.sos.wa.gov/corps)

Work Order #: 2018102500499712 - 1

Received Date: 10/25/2018

Amount Received: \$10.00

EXHIBIT E  
*TNT Transfer Agreement*



# COMMERCIAL LEASE

DATE: November 16, 2018

LANDLORD: CLEVER CAPITAL, LLC.  
630 Valley Mall Pkwy, #157  
East Wenatchee, WA 98802-4838

TENANT: GIGA WATT  
1 Campbell Pkwy  
East Wenatchee, WA 98802

**LOCATION OF LEASED PREMISES.** The Leased Premises is located at 474 Highline Dr., East Wenatchee, Washington, on the Real Property legally described on Exhibit A attached hereto and incorporated as if fully set forth herein. The Lease is subject to all easements, restrictions, agreements of record, mortgages and deeds of trust, and zoning and building laws.

**DESCRIPTION OF LEASED PREMISES.** The Leased Premises shall consist only of buildings B and H, and Building A, excluding the office section, all of which are located on the Real Property, together with related improvements, landscaped areas, and parking facilities. The locations of these buildings are diagramed on the map attached as Exhibit B, which is incorporated as if fully set forth herein.

**LANDLORD AND TENANT IMPROVEMENTS.** Landlord has delivered the Leased Premises and every part or portion thereof with all systems included in Leased Premises cleaned, serviced, working, and free from leaks and/or defects and infestations. These systems include and are not limited to the roof, rain gutters, plumbing, electrical wiring, conduits, plumbing, and heating/furnaces and the parking area. Landlord is required to keep the structure and the structural systems including the roof and rain gutters of the Leased Premises in good repair and free of leaks or infestations (cockroaches, rodents, termites, etc.). All repairs made by Landlord due to damage caused by Tenant shall be reimbursed by Tenant within THIRTY (30) days of Landlord completing the repairs. Tenant shall be responsible to keep all other aspects of the Leased Premises in good repair at its sole cost. Upon occupancy of the Leased Premises, Tenant shall be responsible, at its sole cost and expense, for any and all alterations or improvements to the Leased Premises necessary to accommodate Tenant's business authorized in this Lease. Any and all alterations to the Leased Premises made by Tenant shall be in strict accordance with the provisions of Paragraph 6.4 herein, whether made before or after the Lease Commencement Date. Tenant, by taking occupancy of the Leased Premises, acknowledges that all improvements (if any) promised by Landlord have been completed to Tenant's satisfaction and Tenant accepts the Leased Premises in its then present condition "AS IS."

COMMERCIAL LEASE

**AGREEMENT. LANDLORD HEREBY LEASES TO TENANT AND TENANT DOES HEREBY AGREE TO LEASE FROM LANDLORD THE ABOVE-DESCRIBED LEASED PREMISES UPON THE FOLLOWING TERMS AND CONDITIONS:**

1. **TERM.**

1.1 **Original Term.** The Original Lease Term shall be for a period of One (1) year, commencing on November 1, 2018 (the "Commencement Date") and shall terminate on October 31, 2019 at 5:00 p.m. (PDT). If Tenant occupies the Leased Premises prior to the Commencement Date, Tenant's occupancy of the Leased Premises shall be subject to all provisions of this Lease. Early occupancy of the Leased Premises shall not advance the expiration date of this Lease.

1.2 **Renewal Term.** Provided Tenant shall be in compliance with the terms of this Lease at the time of exercising same, and subject to the terms set forth in Paragraph 2.2 herein, upon expiration of the Original Term, Tenant shall have a ONE (1) year renewal option to be exercised, if at all, by Tenant giving notice in writing to Landlord of Tenant's intent to exercise such option not less than NINETY (90) calendar days prior to the Expiration of the Original Lease Term set forth in Section 1.1, above.

In the event Tenant opts to renew this Lease, Rent shall be increased for such Renewal Term per Section 2.2, below. Landlord and Tenant will commemorate the Renewal Term and increase to Rent in writing not less than THIRTY (30) calendar days prior to the Expiration of the Original Term. Landlord and Tenant may also agree in that writing to provide for one or more subsequent renewal terms under substantially the same conditions in this Section 1.2.

2. **RENT and ADDITIONAL CONSIDERATION**

2.1. **Rent.** Upon execution of the Lease, Tenant shall pay Landlord Twenty-Eight Thousand Two Hundred and Fifty-Seven Dollars (\$28,257.00), which amount is pro-rated for the month of November.

Beginning December 1, 2018, Tenant shall pay Landlord Rent in the amount of Thirty-One Thousand Fifty-Six Dollars (\$31,056.00) per month ("Rent"), payable in advance in equal monthly installments on or before the first day of each calendar month during the Original Term of this Lease and any Renewal Terms thereof.

2.2 **Adjustment to Rent.** At the commencement of the first Renewal Term of the Lease, the payments shall be increased by Five Percent (5.0%). For any subsequent Renewal Term, the payments shall be increased by at least an additional Five Percent (5.0%) each year, compounded annually.

Rent may also be decreased by written agreement of the Parties upon decrease in power capacity to the Leased Premises. Upon execution of the sublease agreement and associated equipment ownership transfer per Section 2.6, below, Tenant's power utilization will likely be reduced and the adjusted rate for December may be recalculated accordingly.

### 2.3 Late Charges and Interest.

2.3.1. Tenant acknowledges that late payment of any rent required by this Lease, or renewal thereof, from Tenant to Landlord will result in collection costs to Landlord, the extent of which additional cost is extremely difficult and, economically impractical to ascertain. Tenant therefore agrees that if Tenant fails to make any rent payment required by this Lease to Landlord WITHIN FIVE (5) CALENDAR DAYS OF THE DATE WHEN IT IS DUE, Landlord shall impose a late charge of twelve percent (12%) of the Rent due to be added to the delinquent payment.

Any Rent payment not paid WITHIN FIFTEEN (15) CALENDAR DAYS OF ITS DUE DATE shall be considered delinquent and a service charge of ten percent (10%) per month thereafter shall be paid to Landlord in addition to Rent. **TENANT AGREES THAT THE LATE CHARGE IS A REASONABLE ESTIMATE OF THE COSTS TO LANDLORD OF COLLECTING THE OVERDUE PAYMENT. LANDLORD MAY LEVY AND COLLECT THE LATE CHARGE IN ADDITION TO ALL OTHER REMEDIES AVAILABLE FOR TENANT'S DEFAULT, AND COLLECTION OF A LATE CHARGE SHALL NOT WAIVE THE BREACH CAUSED BY THE LATE PAYMENT.**

2.3.2 All payments required under this Lease, including any late charge imposed under Paragraph 2.3.1 herein, not paid when due shall bear interest at a rate of eighteen percent (18.0 %) per annum. Landlord may levy and collect this interest charge in addition to all other remedies available for Tenant's default, and collection of a late charge shall not waive the breach caused by the late payment.

2.4 Security Interest. Landlord shall have, and Tenant hereby grants, a Landlord's lien and a security interest in any furnishings, equipment, fixtures, inventory, accounts receivable or other personal property of any kind belonging to Tenant, or the equity of Tenant therein, on the Leased Premises. The security interest is granted for the purpose of securing the payment of rent, other charges, assessments, costs specified in Section 4, penalties and damages herein covenanted, to be paid by Tenant hereunder. Within TWENTY (20) days following the Commencement Date, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provisions of applicable law. Any applicable statutory lien for rent is not herein waived, the security interest herein granted being in addition and supplementary thereto.

2.5 Alteration Deposit. Prior to making any alterations to the Leased Premises, and subject to Section 6.4, Tenant shall provide an alteration deposit sufficient to restore the Leased Premises to its condition prior to the Commencement Date.

2.6 Additional Consideration. Under a prior month-to-month arrangement regarding the Leased Premises, Tenant owes Landlord Eleven Thousand Six Hundred Dollars (\$11,600.00) in past-due rent. Tenant also owes Forty-Six Thousand Forty-Nine Dollars to (\$46,049.00) to the Douglas County Public Utility District (PUD). The Parties understand that PUD intends to shut-off power to the Leased Premises unless Tenant's account is paid in-full by November 16, 2018. Having the power shut-off would create significant risk to Landlord and the

Leased Premises. Therefore, Landlord agrees to pay the outstanding debt to PUD on behalf of Tenant. Combining the past-due rent, the past-due PUD bill, and November's rent, Tenant owes Landlord Eighty-Five Thousand Nine Hundred and Six Dollars (\$85,906.00), the "Total Amount Due."

In consideration for Landlord transferring funds in the amount of Forty-Six Thousand Forty-Nine Dollars to (\$46,049.00) to Tenant for payment of Tenant's PUD outstanding bill, and in lieu of cash payment for the past-due and November rents, Tenant hereby assigns and transfers to Landlord Tenant's contract with PUD for all power accounts associated with the Leased Premises; agrees to promptly facilitate and fully participate in all necessary notice, documentation, or other requirements to effectuate the assignment and transfer; and agrees to immediately transfer to Landlord:

- a. Two Hundred Eighty (280) used S9 miners, including power supplies, at a valuation of Two Hundred Twenty-Five Dollars (\$225.00) per system (\$63,000.00 total); and
- b. Additional miners to constitute the remaining Twenty-Two Thousand Nine Hundred Six Dollars (\$22,906.00), the "Remaining Amount Due," such as:
  - i. Used S9s, including power supplies at a valuation of Two Hundred Twenty-Five Dollars (\$225.00) per system;
  - ii. Used L3 units, including power supply, at a valuation of Thirty-Five Dollars (\$35.00) per system; or
  - iii. Used Alphaminer GPU units, including power supply, at a valuation of Six Hundred Dollars (\$600.00) per system.

If additional equipment is unavailable to constitute the entire Remaining Amount Due, Tenant may pay all or part of the Remaining Amount Due in cash. **ANY SHORTAGE OF ADDITIONAL EQUIPMENT OR CASH PAYMENT, OR DELAY IN FULFILLING TENANT'S OBLIGATIONS TO LANDLORD REGARDING THE TOTAL AMOUNT DUE WILL CONSTITUTE A DEFAULT OF THIS LEASE.**

### 3. **BUSINESS PURPOSE AND USE**

3.1 **Permitted Use.** Tenant shall use the Leased Premises only for the purpose of operating a cryptocurrency server farm business in compliance with applicable law, and activities reasonably related thereto, and for no other purpose without the written consent of Landlord, which consent may be withheld or conditioned in Landlord's sole, unfettered discretion.

3.2 **Compliance with Laws.** In connection with its use, Tenant shall comply, at its expense, with all applicable laws, regulations and requirements of any public authority, including those regarding maintenance, operation and use of the Leased Premises and any appliances on the Leased Premises (including signs). Without limiting the generality of the foregoing, after the Commencement Date of this Lease, should the government require alterations to the interior, exterior or structure of the building necessitated by changes in applicable building codes, handicapped access laws or similar regulations, these changes will be the sole responsibility of Tenant.

3.3 **Supervision.** Tenant shall keep the Leased Premises clean and orderly and will cause its employees, agents, and invitees to conduct themselves in a professional manner. Tenant will supervise its employees and cause Tenant's agents, independent contractors, employees, customers, suppliers, and invitees to conduct their activities in such a manner as to comply with the requirements of this Lease and the rules and regulations described herein.

3.4 **Storage, Trash.** Tenant shall not store anything outside the building except in strict compliance with requirements of applicable governmental authority, and all such materials (if allowed) shall be reasonably site-screened from public roads. Tenant shall dispose of trash and other matter in a manner acceptable to Landlord.

#### 4. **UTILITIES AND TAXES**

4.1 **Payment.** Tenant shall pay directly to the appropriate supplier all charges for garbage collection, gas, internet and telephone supplied to the Leased Premises. **FAILURE TO PAY ANY CHARGES FOR GARBAGE COLLECTION, GAS, INTERNET AND/OR TELEPHONE SERVICE WITHIN THIRTY (30) DAYS OF AN INVOICE'S DUE DATE CONSTITUTES AN EVENT OF DEFAULT.**

Tenant shall pay Landlord for electricity, water, and sewer in advance in the amount of Fifty-One Thousand dollars (\$51,000) per month for electricity, Sixty-nine dollars (\$69.00) per month for water, and Seventy-six dollars (\$76.00) per month for sewer ("Estimated Utilities") (\$51,145) on the first day of each month. In the event Tenant's electricity, water, and/or sewer is above the Estimated Utilities, Landlord shall provide an invoice of the overage to Tenant at the address listed below in Section 15.4, and Tenant shall have FIVE (5) days to reimburse Landlord ("Overage"). **FAILURE TO PAY THE ESTIMATED UTILITIES AND/OR ANY OVERAGE BY ITS DUE DATE CONSTITUTES AN EVENT OF DEFAULT.** Upon termination of the Lease other than by Tenant's default, any overpayment in the Estimated Utilities will be refunded to Tenant.

4.2 **Interruption of Service.** Landlord shall not be liable for any failure or interruption of utilities or services to the Leased Premises, unless caused by the sole negligence of Landlord or its agents.

#### 4.3 **Taxes and Assessments.**

4.3.1 **Taxes and Other Payments.** Landlord shall ensure all real property taxes, other charges, and assessments properly levied against the Leased Premises are timely paid. Should Tenant's use of the Leased Premises cause increases in property taxes, Landlord may adjust the Rent by the increase in the property taxes due.

4.3.2 **Personal Property Taxes.** Tenant shall pay, before delinquency, any and all taxes levied or assessed on, or as a result of, Tenant's leasehold improvements, equipment, furniture, fixtures and any other personal property located on the Leased Premises. In the event any or all of Tenant's leasehold improvements, equipment, furniture, fixtures, and other personal property shall be assessed and taxed with the Real Property, Tenant shall pay to Landlord

its share of such taxes within TEN (10) days after delivery to Tenant from Landlord of a statement in writing setting forth the amount of such taxes applicable to Tenant's property.

## 5. INSURANCE AND INDEMNITY PROVISIONS

5.1 Property Insurance. Landlord shall procure and maintain a Property insurance policy covering loss or damage to the building in which the Leased Premises is located, including all existing improvements, in an amount that will adequately cover repairing and/or rebuilding the structure as a result of damage from fire, casualty, peril, storm or otherwise. The Property Insurance required by this paragraph shall be for the benefit of Landlord and shall have Landlord as the sole named insured. Tenant shall be responsible for insuring all of its equipment, inventory, trade fixtures and contents located on or within the Leased Premises.

5.2 Liability Insurance. Tenant, at its expense, shall obtain and keep in force during the entire term of this Lease a policy of Commercial General Liability insurance insuring Landlord and Tenant against all liability arising out of the ownership, use, occupancy, or maintenance of the Leased Premises and all areas appurtenant thereto. Such policy or policies shall provide for liability coverage with minimum combined single limits for bodily injury and property damage per occurrence in amounts not less than one million dollars (\$1,000,000). The limits of liability insurance required by this paragraph shall not, however, limit the liability of Tenant hereunder. To the extent any deductible is permitted or allowed as part of any insurance policy carried by Tenant in compliance with this Section 5, Tenant shall be deemed to be covering the amount of such deductible under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed One Thousand Dollars (\$1,000.00). All such insurance policies shall name Landlord as an additional insured and shall be with companies and with loss-payee clauses satisfactory to Landlord. Copies of all policies or certificates evidencing such insurance shall be delivered to Landlord by Tenant within TEN (10) calendar days after this Lease is executed. All policies shall bear endorsements requiring THIRTY (30) days written notice to Landlord prior to any change or cancellation.

5.3 Waiver of Subrogation. Tenant and Landlord each waive any and all rights of recovery against the other, or against the employees, agents and representatives of the other, for loss of or damage to such waiving party, property, or property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Landlord and Tenant shall, upon obtaining the policies of insurance required hereunder, give notice to the insurance carriers that the foregoing mutual Waiver of Subrogation is contained in this Lease. The foregoing Waiver shall not apply if it would have the effect, but only to the extent of such effect, of invalidating any insurance coverage of Landlord or Tenant.

5.4 Indemnity of Landlord. Tenant shall defend, indemnify, and hold Landlord harmless from any and all costs, claims or liability arising from (1) Tenant's use of the Leased Premises; (2) the conduct of Tenant's business or anything else done or permitted by Tenant to be done in or about the Leased Premises; (3) any breach or default in the performance of Tenant's obligations under this Lease; (4) any misrepresentation or breach of warranty by Tenant under this Lease; or (5) other acts or omissions of Tenant. The indemnity set forth in this paragraph is intended to specifically cover actions brought by Tenant's own employees, and with respect to acts



or omissions during the Lease Term, shall survive termination or expiration of this Lease. Tenant's indemnities set forth in this Lease are specifically and expressly intended to constitute a waiver by Tenant of its immunity, if any, under Washington's Industrial Insurance Act, RCW Title 51, et seq., to the extent necessary to provide Landlord with a full and complete indemnity from claims made by Tenant and/or its employees to the full extent of its negligence. Tenant shall promptly notify Landlord of any casualties or accidents occurring in or about the Leased Premises that may give rise to Tenant's indemnity obligation set forth herein.

## 6. MAINTENANCE, REPAIRS AND ALTERATIONS

6.1 **Landlord's Obligations.** Landlord has delivered the Leased Premises and every part or portion thereof with all systems included in Leased Premises cleaned, serviced, working, and free from leaks and/or defects and infestations as of the Commencement Date. These systems include and are not limited to the roof, rain gutters, plumbing, electrical wiring, conduits, plumbing, and heating /furnaces. Landlord is required to keep the roof, rain gutters, and the parking area of the Leased Premises in good repair and free of leaks or infestations (cockroaches, rodents, termites, etc.). Landlord shall be responsible for the snow removal of the main paved driveways and landscaping.

6.2 **Tenant's Obligations.** Tenant, at Tenant's expense, shall keep in good order, condition, and repair the Leased Premises, including interior and all interior and exterior repainting and refinishing, as needed. Tenant shall also be responsible to maintain and keep in a good working state of repair all doors, windows, window casings, HVAC, plumbing, and electrical wiring and conduits, and all ice and snow removal from walkways and parking areas in surrounding Buildings A, B, and H. If any portion of the Leased Premises, or any major system or equipment on the Leased Premises, cannot be fully repaired or restored, Tenant shall protect the Leased Premises from damage and shall promptly repair any damage from burglary or attempted burglary. Tenant shall keep the glass on all windows and doors clean and presentable, replace immediately all broken glass on the Leased Premises; make any necessary repairs to, or replacements of, all doors and door closure apparatus and mechanisms; keep all plumbing clean and in a good state of repair, including pipes, drains, toilets, basins, water heaters and those portions of the heating system within the walls of the Leased Premises; and shall keep all utilities, including the circuit breakers, panel boxes and meters in a good state of repair. Additionally, it shall be Tenant's responsibility to maintain and repair any and all improvements installed by Tenant.

6.3 **Surrender of Leased Premises.** On the last day of the term of this Lease, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in good condition, ordinary wear and tear excepted. Tenant shall repair any damage to the Leased Premises occasioned by Tenant's use thereof or by the removal of Tenant's trade fixtures, furnishings, and equipment, which repair shall include the patching and filling of holes and repair of any structural damage. Tenant shall renovate the Leased Premises, returning it to its condition as of the Commencement Date.

6.4 **Alterations and Additions.** Tenant shall make no alterations, additions, or improvements in, on, to, or about the Leased Premises without Landlord's prior written consent,

which consent may be withheld or conditioned in Landlord's sole discretion. Prior to making alterations, Tenant shall provide to Landlord an alteration deposit, which sum shall be a good faith estimate, approved by Landlord in writing, of the cost to renovate the Leased Premises to its Commencement Date condition. In addition to obtaining Landlord's written consent and providing Landlord with an alteration deposit, prior to making alterations, Tenant shall obtain any and all necessary permits from the city and/or county required to make the proposed alterations to the Leased Premises and provide a copy of all permits to Landlord. At the termination of the Lease, Tenant shall remove any alterations, improvements, additions, or utility installations at the expiration of the Lease Term and restore the Leased Premises to its prior condition. Should Landlord not require the removal of a specific alteration, improvement, or addition that may be made on the Leased Premises, said alteration, improvement, or addition shall become the property of Landlord, and remain upon and be surrendered with the Leased Premises at the expiration of the Lease Term. Notwithstanding the foregoing, Tenant's machinery, equipment, and trade fixtures shall remain the property of Tenant and may be removed by Tenant subject to the provisions of Sections 2.4 and 6.3 above.

6.5 **Entry and Inspection.** Landlord or its agents may enter the Leased Premises at any reasonable time to determine Tenant's compliance with this Lease, to make necessary repairs, or to show the Leased Premises to prospective tenants or purchasers. Landlord shall not unreasonably interfere with Tenant's business operations when exercising the entry and inspection rights set forth in this paragraph. Tenant shall provide Landlord with a key and code to access all buildings.

## 7. **RECONSTRUCTION AND RESTORATION**

7.1 **Minor Damage.** If during the Term hereof the Leased Premises is damaged by fire, casualty, peril, or otherwise, and such damage is not "substantial" (as defined in Paragraph 7.2 herein), Landlord shall promptly repair such damage at Landlord's expense after the application of all insurance proceeds, if any, including, but not limited to, those provided for in Section 5 hereof, and this Lease shall continue in full force and effect, provided, however, that the requirement to rebuild and restore the Leased Premises shall not extend to any furnishings, fixtures or equipment that Tenant has previously installed in the Leased Premises, whether or not title to such items had passed to Landlord under other provisions of this Lease. Notwithstanding the foregoing, if there are insufficient insurance proceeds available to Landlord to rebuild and restore the Leased Premises damaged by fire, casualty, peril, or otherwise (unless Tenant, at its option, agrees to pay the deficiency), Landlord shall have the right, at its option, to terminate this Lease. In addition, Tenant shall be obligated to pay for the costs of rebuilding or restoration arising out of an act or omission of Tenant, its agents, or employees to the extent such items are not covered by insurance maintained in accordance with this Lease.

7.2 **Substantial Damage.** If during the Term of this Lease, the Leased Premises is destroyed or damaged by fire, casualty, peril, or otherwise, and the damage is "substantial," then Landlord may elect to terminate this Lease by giving Tenant written notice of such termination within SIXTY (60) days after the date of such damage or destructive event. For purposes of this paragraph, damage shall be "substantial" if (i) twenty percent (20%) or more of the floor area of a building on the Leased Premises is rendered untenable, (ii) if repairs are estimated to exceed



twenty-five percent (25%) of the full construction/replacement cost of a building on the Leased Premises, or (iii) if, regardless of the estimated amount of the repairs, the Leased Premises is reasonably estimated to remain untenable for Tenant's authorized use set forth in this Lease for a period exceeding NINETY (90) days.

Otherwise, Landlord shall proceed with reasonable diligence to restore the Leased Premises to a condition comparable to that existing prior to the damage. Tenant shall cooperate with Landlord during the period of repair and vacate all or any part of the Leased Premises to the extent necessary for the performance of the required work. If the improvements on Leased Premises are not rebuilt or restored, the insurance proceeds for loss of Landlord's building, property, and loss of rent shall become the sole property of Landlord, and the Lease shall terminate effective as of the date of such damage or destruction.

7.3 **Repair of Tenant's Property.** Repair, replacement, or restoration of Tenant's improvements, fixtures, equipment, and personal property shall be the responsibility of Tenant.

7.4 **Damage Caused by Tenant.** Notwithstanding any other provision herein, the cost to repair any and all damage or destruction to the Leased Premises caused by Tenant, Tenant's employees, Tenant's improvements, or Tenant's personal property shall be the sole responsibility of Tenant.

8. **ASSIGNMENT AND SUBLETTING.** Tenant shall not (voluntarily or by operation of law) assign, mortgage, pledge or encumber the Leased Premises or Tenant's leasehold estate or sublet any portion of the Leased Premises, or otherwise transfer any interest in the Leased Premises (including the right to possession) without Landlord's prior written consent in each instance, which consent may be withheld or conditioned in Landlord's sole discretion. Any transfer by Tenant to an approved transferee shall not act to release Tenant (or its guarantors) from its obligations under this Lease and Tenant shall remain primarily liable for the performance for each and every Term and Condition of this Lease.

## 9. **CONDEMNATION**

9.1 **Entire or Substantial Taking.** If all or any "substantial portion" of the Leased Premises shall be taken under the power of eminent domain (sometimes hereinafter referred to as "Condemnation"), Landlord or Tenant shall have the right at its option to terminate this Lease effective on the date the condemning authority takes possession. Upon such termination, Tenant shall surrender possession of the Leased Premises to Landlord. Landlord or Tenant may exercise their termination rights by notifying the other party in writing of its option to terminate the Lease within sixty (60) days following the date on which the parties receive notice of the proposed taking. For purposes of this paragraph, a sale by Landlord to any authority with power of eminent domain, either under threat of Condemnation or while condemnation proceedings are pending, shall be deemed a taking under the power of eminent domain under this paragraph.

9.2 **“Substantial” Taking**. For purposes of this paragraph, a Condemnation of substantial portion of the Leased Premises shall mean any of the following:

9.2.1 If any portion of the floor area of Tenant’s leased space in a building located on the Leased Premises is taken in the Condemnation;

9.2.2 If twenty-five percent (25%) or more of the value of the Leased Premises is taken in the Condemnation; or

9.2.3 If, regardless of the value of the amount of the Leased Premises taken, the cost of repairing and restoring the remainder of the Leased Premises for Tenant’s authorized use exceeds twenty-five percent (25%) of the value of the entire Leased Premises prior to Condemnation.

9.3 **Partial Taking**. In the event of any Condemnation that does not result in a termination of this Lease, this Lease shall remain unaffected except the Base Rent shall be equitably abated to the extent that Tenant is deprived of use of the Leased Premises. In the event the Lease is not terminated following a Condemnation, Landlord will, at its expense, restore with reasonable diligence the remaining portions of the Leased Premises to as near its former condition as is reasonably possible; provided, however, that there are sufficient condemnation proceeds available to Landlord to restore the Leased Premises, and provided further that the requirement to restore the Leased Premises shall not extend to any furnishings, fixtures, or equipment that Tenant had previously installed in the Leased Premises, whether or not title of such items had passed to Landlord under other provisions of this Lease.

9.4 **Awards**. Any award for taking of all or any part of the Leased Premises under the power of eminent domain shall be the property of Landlord, whether such award shall be made as compensation for diminution in value of the leasehold or for taking of the fee. Nothing, however, shall be deemed to preclude Tenant from obtaining, or to give Landlord an interest in, any award to Tenant for loss of, damage to, cost of removal of Tenant’s trade fixtures and removable personal property, or for damages for cessation or interruption of Tenant’s business.

10. **SIGNS**. No signs or advertising shall be erected or placed on the exterior of the Leased Premises or anywhere else on the Leased Premises without the prior written approval of Landlord, which approval may be withheld or conditioned in Landlord’s sole discretion. Any and all signs approved by Landlord must be installed and maintained in compliance with the requirements of any governmental authorities having jurisdiction, and Tenant shall obtain and keep in force any licenses required for such signage. All such signage shall be at the sole cost and expense of Tenant. Upon the expiration or termination of this Lease, Tenant, at its sole cost and expense, shall remove all interior and exterior signs, logos, and advertising, and shall repair any and all damage caused by their removal (i.e., patching and filling of holes, painting of walls, etc.).

## 11. **OTHER OBLIGATIONS OF PARTIES**

11.1 **Liens**. Tenant shall pay as due all claims for work done on the Leased Premises or for services rendered or materials furnished to the Leased Premises and shall keep the

Leased Premises free from any liens other than liens created by Landlord. **FAILURE BY TENANT TO HAVE LIENS RELEASED BY A CONTRACTOR, SUB-CONTRACTOR OR ANY INDIVIDUAL OR ENTITY PLACING A LIEN ON THE LEASED PREMISES SHALL CONSTITUTE A DEFAULT OF THE LEASE.** If Tenant fails to pay such claim or to discharge any lien, Landlord may do so and collect such amount as Additional Rent. Amounts paid by Landlord shall bear interest and be repaid by Tenant as provided in Paragraph 13.3 herein. Such payment by Landlord shall not constitute a waiver of any right or remedy Landlord may have because of Tenant's default.

11.2 **Holding Over.** If Tenant does not vacate the Leased Premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month-to-month, subject to all of the provisions of this Lease (except that the term will be month-to-month and the initial minimum month rent will be one hundred twenty-five percent (125%) of the Rent then being paid by Tenant, as may have been adjusted pursuant to Paragraph 2.3 herein), or to eject Tenant from the Leased Premises and recover damages caused by wrongful hold over.

11.3 **Non-Merger.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of the Landlord, terminate any existing subtenancies, or may, at the option of Landlord, operate as an assignment to it of any and all such subtenancies.

11.4 **Priority of Lease.** This Lease shall be subject and subordinate at all times to the lien of all mortgages and deeds of trust subsequently placed upon the Leased Premises, all without the necessity of having further instruments executed on the part of Tenant to effectuate such subordination. Provided, however, the subordination of Tenant's rights hereunder is conditioned upon the mortgagee or beneficiary under any deed of trust agreeing that Tenant's peaceable possession of the Leased Premises and its rights under this Lease will not be disturbed so long as Tenant is not in default under this Lease. If any party providing financing or funding to Landlord requires, as a condition of such financing or funding, that Tenant send such party written notice of any default by Landlord under this Lease, giving such party the right to cure such default until it has completed foreclosure and prevent Tenant from terminating this Lease unless such default remains uncured after foreclosure has been completed, Tenant will execute and deliver any agreement required by such party in order to accomplish this purpose.

11.5 **Landlord's Liability; Sale.** In the event the original Landlord hereunder, or any successor owner of the Leased Premises, shall sell or convey the Leased Premises, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease accruing thereafter shall terminate, and thereupon all such liabilities and obligations shall be binding upon the new owner. Tenant agrees to attorn to such new owner.

11.6 **Rules and Regulations.** Tenant agrees to comply with all rules and regulations for the Leased Premises adopted and published by Landlord from time to time and to cause Tenant's sub-lessees, customers, employees, and invitees to abide by such rules and regulations.

11.7 **Parking**. Tenant's employees, agents, customers, and invitees may use the parking areas of the Leased Premises for the temporary parking of automobiles and other vehicles. No vehicle may be parked in the same location for more than a forty eight (48) hour period. The parking areas, loading areas, and sidewalks of the Leased Premises shall not be used for any purpose other than parking, loading, and unloading of commercial vehicles and pedestrian traffic, respectively.

## 12. **ENVIRONMENTAL PROVISIONS**

12.1 **Restrictions on Hazardous Substances**. Tenant shall not cause or permit any Hazardous Substance to be brought upon, used, stored, generated, or disposed of on or in the Leased Premises by Tenant, its agents, employees, contractors, or invitees, except for such Hazardous Substances as are necessary to Tenant's authorized business. Any Hazardous Substance permitted on the Leased Premises, and all containers therefore, shall be used, kept, stored, and disposed of in a manner that complies with all federal, state, and local laws or regulations applicable to the particular Hazardous Substance. Tenant shall not release or permit to be released by any Hazardous Substance in violation of federal, state or local environmental laws or regulations, or which may adversely affect (a) the health, welfare, or safety of persons, whether located on the Leased Premises or elsewhere, or (b) the condition, use, or enjoyment of the Leased Premises or any other real or personal property.

12.2 **Indemnity**. Tenant hereby agrees that it shall be responsible for all costs and expenses relating to the use, storage, and disposal of Hazardous Substances kept on the Leased Premises by Tenant, and Tenant shall give immediate notice to Landlord of any violation or potential violation of the provisions of this paragraph, or any other state, federal or local environmental law or regulation. Tenant shall defend, indemnify, and hold Landlord and its agents harmless from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including without limitation, a decrease in value of the Leased Premises, damages caused by loss or restriction of rentable or useable space, or any damages caused by adverse impact on marketing of the Leased Premises and any and all sums paid for settlement of claims, attorney fees, consultant and expert fees), of whatever kind or nature, known, unknown, contingent or otherwise arising out of or in any related to (a) the release of a Hazardous Substance arising out of an act or omission of Tenant or its agents; (b) the presence, disposal, release, or threatened release of any such Hazardous Substance that is on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (c) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to that Hazardous Substance; (d) any lawsuit brought or threatened, settlement reached or government order relating to that Hazardous Substance; or (e) any violation of any state, local or federal environmental laws applicable to such Hazardous Substance. The provision of this paragraph shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or equity, and shall survive the transactions contemplated within this Lease, and shall survive the termination of this Lease.

12.3 **Definition of Hazardous Substances**. For purposes of this paragraph, the term "Hazardous Substances" means any substance that is toxic, ignitable, reactive, or corrosive,

or that is regulated by any local government, the State of Washington, or the United States government according to environmental laws or regulations now in effect, or which may hereafter be enacted.

### 13. **DEFAULTS; REMEDIES**

13.1 **Default.** The following shall be events of default:

13.1.1 **Payment Default.** FAILURE OF TENANT TO MAKE ANY RENT OR ESTIMATED UTILITIES PAYMENT UNDER THIS LEASE WITHIN FIVE (5) DAYS AFTER SUCH PAYMENT IS PAST DUE.

**IF TENANT REMAINS IN DEFAULT THREE (3) DAYS AFTER LANDLORD'S WRITTEN DEMAND, LANDLORD SHALL HAVE THE UNILATERAL RIGHT TO TERMINATE THE LEASE AND/OR IMMEDIATELY SHUT-OFF ELECTRICAL SERVICES TO THE LEASED PREMISES.** Landlord and Tenant agree that Tenant's energy-intensive use of the Leased Premises represents substantial risk to Landlord in the event that Tenant fails to timely all obligations herein, which justifies Landlord's unilateral rights, above. Tenant shall hold Landlord harmless for any damages, direct or consequential, associated with termination of Tenant's electrical services.

13.1.2 **Unauthorized Transfer.** Tenant makes any transfer without Landlord's prior written consent as required under Paragraph 8.

13.1.3 **Abandonment of Leased Premises.** Tenant fails to occupy or use the Leased Premises for the purposes permitted by this Lease for a total of TWENTY (20) consecutive business days or more during the Lease Term, unless such failure is excused under other provisions of this Lease.

13.1.4 **Default in Other Covenant.** FAILURE OF TENANT TO COMPLY WITH ANY OTHER TERM OR CONDITION OR FULFILL ANY OTHER OBLIGATION OF THIS LEASE WITHIN TEN (10) CALENDAR DAYS AFTER WRITTEN NOTICE BY LANDLORD SPECIFYING THE NATURE OF THE DEFAULT WITH REASONABLE PARTICULARITY. No notice and no opportunity to cure shall be required if Landlord has previously given Tenant notice of failure to comply with such Term or Condition, or fulfill such other obligation of this Lease during the preceding calendar year.

13.1.5 **Insolvency Defaults.** Dissolution, termination and existence, insolvency on a balance sheet basis, or business failure of Tenant; the commencement by Tenant of a voluntary case under the federal bankruptcy laws or under any other federal or state law relating to Tenant's insolvency or debtor's relief; the entry of a decree or order for relief against Tenant in an involuntary case under the federal bankruptcy laws, or under any other applicable federal or state law relating to Tenant's insolvency or debtor's relief; the appointment of or the consent by Tenant to the appointment of a receiver, trustee or custodian of Tenant; an assignment for the benefit of creditors by Tenant; Tenant's failure generally to pay its debts as such debts become due; the making or suffering by Tenant of a fraudulent transfer under applicable federal

or state law; concealment by Tenant of any of its property in fraud of creditors; the making or suffering by Tenant of a preference within the meaning of federal bankruptcy law; or the imposition of a lien through legal proceedings or distraint upon any of the property of Tenant which is not discharged or bonded. During any period in which there is a guarantor(s) of this Lease, each reference to "Tenant" in this paragraph shall be deemed to refer to "guarantor or tenant," separately.

13.2 **Remedies on Default.** Upon default, Landlord may exercise any one or more of the following remedies, or any other remedy available under applicable law:

13.2.1 **Termination of Lease.** **LANDLORD SHALL HAVE THE IMMEDIATE OPTION TO TERMINATE THIS LEASE AND ALL RIGHTS OF TENANT HEREUNDER.** In the event that Landlord shall elect to terminate this Lease, Landlord may recover from Tenant: (i) the amount of any unpaid rent which has been earned at the time of such termination; plus (ii) the amount by which the unpaid rent which would have been earned after termination and, for the balance of the Lease term, exceeds the amount of such rental loss that Tenant proves that could have been reasonably avoided; plus (iii) any interest charged on delinquent rent; plus any other amount to compensate Landlord for the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease.

13.2.2 **Retake Possession.** To the extent permitted by law, Landlord may re-enter and retake possession of the Leased Premises, on three (3) days advance notice, either by summary proceedings or any other applicable action or proceeding, or otherwise. Landlord may use the Leased Premises for Landlord's own purposes or relet it upon any reasonable terms without prejudice to any other remedies that Landlord may have by reason of Tenant's default.

13.2.3 **Relet the Leased Premises.** Landlord, at its option, may relet the whole or any part of the Leased Premises, from time to time, either in the name of Landlord or otherwise, to such tenants, for such terms ending before, on or after the expiration date of the Lease term, at such rentals and upon such other conditions (including concessions and free rent periods) as Landlord, in its sole discretion, may reasonably determine to be appropriate. Landlord, at its option, may make such physical changes to the Leased Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting without relieving Tenant of any liability under this Lease or otherwise affecting Tenant's liability. In the event Landlord elects to relet the Leased Premises, rent received by Landlord for such reletting shall be applied; first, to the payment of any cost of reletting; second, to pay the cost of any alterations or repairs to the Leased Premises; third, to the payment of indebtedness other than rent owed by Tenant to Landlord; and fourth, to the payment of rent due and unpaid under the Lease, and the residue, if any, shall be held by Landlord and applied to the payment of future rent as the same may become due and payable. Should rent received from the reletting of the Leased Premises during any month be less than the rent payable under the terms of the Lease by Tenant, then Tenant shall pay the deficiency to Landlord immediately upon demand.

13.2.4 **Damages for Default.** Whether or not Landlord retakes possession or relets the Leased Premises, Landlord may recover all damages caused by the default (including, but not limited to unpaid rent, attorney's fees relating to the default, and costs of reletting).



Landlord may sue periodically to recover damages as they accrue during the remainder of the Lease term without barring a later action for further damages. Upon the occurrence of a payment default, Landlord may bring an action for accrued damages plus damages for the remaining Lease Term equal to the difference between the rent specified in this Lease and the reasonable rental value of the Leased Premises for the remainder of the Term, discounted to the time of judgment at the rate of three percent (3%) per annum.

13.2.5 **Disposition of Property.** Landlord shall have the right to take possession of Tenant's personal property, without liability for trespass or conversion, and sell the same at public or private sale, after giving Tenant reasonable notice at Tenant's last known address of the time and place of any public sale, or of the time after which any private sale is to be made, at which sale the Landlord or its assigns may purchase it. The proceeds from any such disposition, less any and all expenses conducted with the taking of possession, holding and selling of the property, shall be applied as a credit against the indebtedness secured by the security interest per Section 2.4.

13.3 **Cure of Default.** Without prejudice to any other remedy for default, Landlord may perform any obligation or make any payment required to cure a default by Tenant. The cost of performance, including attorney's fees and all disbursements, shall immediately be repaid by Tenant upon demand, together with interest from the date of expenditure until fully paid at the same rate as the Bank Prime Loan Rate as published by The Federal Reserve Bank (<https://www.federalreserve.gov/releases/h15/>) currently at 3.50%.

13.4 **Remedies Cumulative.** Any right or remedy Landlord may have under this Lease arising out of Tenant's breach of any covenant of this Lease shall be in addition to any other right or remedy for such breach provided by law.

14 **TENANT IMPROVEMENTS.** Except as set forth in this Lease or in a separate written agreement between Landlord and Tenant, Tenant shall be solely responsible, at its cost and expense, to perform all work required to ready the Leased Premises for Tenant's use and occupancy. All work to be performed by Tenant to ready the Leased Premises for occupancy shall be subject to and conducted in accordance with the provisions of Paragraph 6.4 of this Lease.

## 15. **MISCELLANEOUS**

15.1 **Waivers.** No waiver by Landlord of performance of any provision of this Lease shall waive or prejudice Landlord's right to otherwise require performance of the same provision or any other provision, and Landlord's acceptance of Rent or Additional Rent shall not waive or prejudice Landlord's remedies for Tenant's default, including the right to repossess the Leased Premises or to forfeit or terminate the Lease.

15.2 **Recording.** Tenant shall not record this Lease without the prior written consent of Landlord, which consent may be withheld or conditioned in Landlord's sole discretion.

15.3 **Neighboring Businesses.** Tenant understands and agrees that neighboring business activity may affect its business operations and shall not be a basis for Tenant to breach

the terms of this Lease or seek revision of said terms. Should Tenant have issues with neighboring tenants, Tenant shall first discuss any issues with Landlord to determine the proper remedy, if any. Neither Tenant nor Tenant's employees shall harass any other neighboring tenant or business. **ANY HARASSMENT BY TENANT OR TENANT'S EMPLOYEES SHALL CONSTITUTE A DEFAULT.**

15.4 **Notices.** All notices provided for or permitted to be given pursuant to this Lease, except those for Overages under Section 4.1, shall be in writing and shall be delivered in person or sent by registered or certified United States mail, postage prepaid, return receipt requested, or by overnight courier, to the addresses set out herein or to such other addresses as are specified by no less than ten (10) days prior written notice delivered in accordance herewith:

To Landlord: CLEVER CAPITAL, LLC.  
630 Valley Mall Pkwy, #157  
East Wenatchee, WA 98802-4838

To Tenant: GIGA WATT, INC.  
1 Campbell Pkwy  
East Wenatchee, WA 98802

All such notices shall be deemed effectively given and delivered THREE (3) days after the postmark date of mailing, the day after delivery to the overnight courier, or, if delivered personally, when received. Rejection or other refusal to accept or the inability to deliver because of a changed address of which no notice was given in accordance with the time period provided herein shall be deemed to be receipt of the notice sent.

15.5 **Construction.** (a) This Lease shall be construed and governed by the laws of the State of Washington; (b) the invalidity or unenforceability of any provision hereof shall not affect or impair any other provision hereof; (c) this Lease constitutes the entire agreement of the parties and supersedes all prior agreements or understandings between the parties with respect to the subject matter hereof; (d) this Lease may not be modified or amended except by written agreement signed and acknowledged by both parties; (e) if there is more than one tenant, the obligations hereunder imposed upon Tenant shall be joint and several; (f) time is of the essence of this Lease in each and every provision hereof; (g) nothing contained herein shall create the relationship of principal and agent or of partnership or of joint venture between the parties hereto and no provisions contained herein shall be deemed to create any relationship other than that of Landlord and Tenant; and (h) this Lease may be executed in counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

15.6 **Successor.** Subject to any limitations on assignments herein, all of the provisions of this Lease shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

15.7 **Attorney's Fees.** In the event of any dispute arising out of or relating to this Lease, whether or not suit or other proceeding is commenced, and whether in mediation, arbitration, at trial, on appeal, in administrative proceedings, or in bankruptcy (including, without







## EXHIBIT A

### Legal Description

A part of Tract 40 of the East Wenatchee Land Company's Plat of Section Thirteen (13), Township Twenty-Two (22) North, Range Twenty (20), East of the Willamette Meridian, Douglas County, Washington, more particularly described as follows:

Commencing at the Easterly corner of said Tract 40; thence North 43°25'20" West along the Northeasterly boundary of said Tract 40, which is the Northeasterly Right-of-Way Limit of Highline Drive, for 274.00 feet; Thence South 46°34'40" West for 30.00 feet to a point on the Southwesterly Right-of-Way Limit of said Highline Drive, the True Point of Beginning for this description; Thence continuing South 46°34'40" West for 570.0 feet; Thence South 43°25'20" East for 87.00 feet; Thence North 46°34'40" East for 570.00 feet to the aforesaid Southwesterly Right-of-Way Limit of Highline Drive; Thence North 43°25'20" West along said Right-of-Way Limit for 87.00 feet to the True Point of Beginning; TOGETHER WITH:

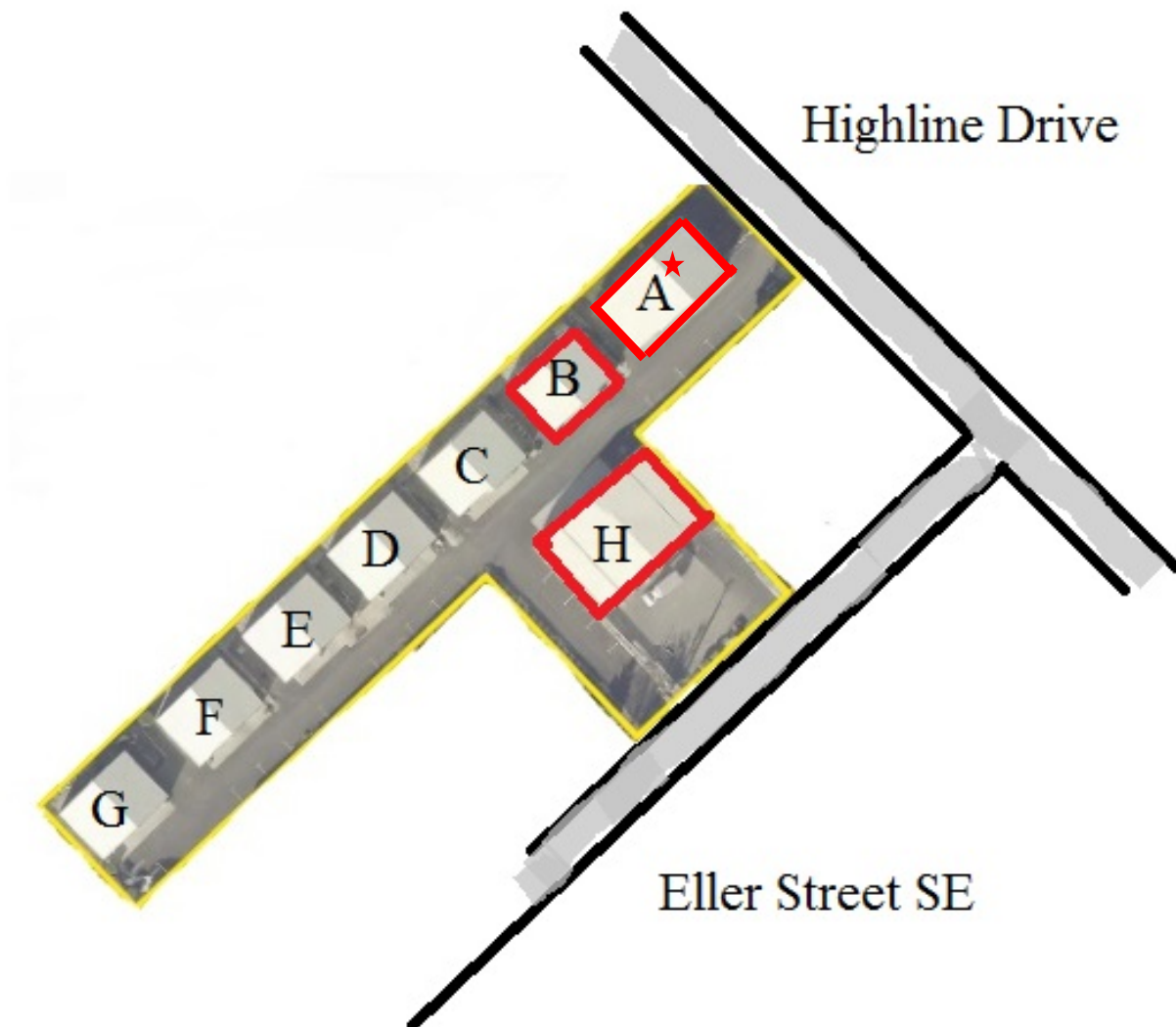
Lot 1, Emmet Johnson Short Plat as recorded in Book E of Plats at Page 79, records of Douglas County, Washington.

APN. 402-000-040-12

## EXHIBIT B

### Location of Buildings A, B, and H

- ★ The Leased Premises does not include the portion of Building A behind the interior metal door, which is an office/kitchen space. No Tenant personnel are allowed in this reserved space or Buildings C, D, E, F, and G. Any security (including camera surveillance) in this portion of Building A should be turned off. Original building door alarms should be left intact.



limitation, any adversary proceeding or contested matter in any bankruptcy case), the prevailing party shall be entitled to its costs and litigation expenses incurred, including its reasonable attorney fees. Venue shall be in Douglas County, Washington.

15.8 No Offer. This Lease is submitted to Tenant on the understanding that it will not be considered an offer and will not bind Landlord in any way until (a) Tenant has duly executed and delivered the original to Landlord, and (b) Landlord has executed and delivered one copy to Tenant.

WHEREFORE, the parties have executed this Lease this \_\_\_\_ day of November 2018.

**LANDLORD:**

**TENANT:**

CLEVER CAPITAL, LLC

GIGA WATT, INC.

By: Vanessa Pierce Rollins

By: George F. Turner III

Name: Vanessa Pierce Rollins

Name: George F. Turner III

Title: Authorized Representative

Title: Managing Director

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Douglas )

On this day personally appeared before me Vanessa Pierce Rollins, authorized representative of, CLEVER CAPITAL, LLC, to me known to be the person who executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said company for the uses and purposes herein mentioned and on oath stated he is authorized to execute said instrument on behalf of said company.

GIVEN under my hand and official seal this 16<sup>th</sup> day of November 2018.



Richard O. Daniel  
NOTARY PUBLIC in and for the State of  
Washington, residing at Chelan Co.  
My commission expires: 04-20-2022

STATE OF WASHINGTON )

COUNTY OF Douglas ) ss.

On this day personally appeared before me George F. Turner III,  
the Managing Director of GIGA WATT, INC, to me known to be the person who executed  
the within and foregoing instrument, and acknowledged said instrument to be the free and  
voluntary act and deed of said corporation for the uses and purposes herein mentioned and on oath  
stated he is authorized to execute said instrument on behalf of said corporation.

GIVEN under my hand and official seal this 16<sup>th</sup> day of November 2018.



Richard O. Daniel  
NOTARY PUBLIC in and for the State of  
Washington, residing at Chelan Co.  
My commission expires: 04-20-2022

**Exhibit F**

*12.21.18 WA SOS*

*Clever Capital – No Real Estate Interest*



Filed  
Secretary of State  
State of Washington  
Date Filed: 12/21/2018  
Effective Date: 12/21/2018  
UBI #: 603 563 756

## Annual Report

### BUSINESS INFORMATION

---

Business Name:

**CLEVER CAPITAL, LLC**

UBI Number:

**603 563 756**

Business Type:

**WA LIMITED LIABILITY COMPANY**

Business Status:

**ACTIVE**

Principal Office Street Address:

**630 VALLEY MALL PKWY, #157, WENATCHEE, WA, 98802-4838, UNITED STATES**

Principal Office Mailing Address:

**630 VALLEY MALL PKWY, #157, WENATCHEE, WA, 98802-4838, UNITED STATES**

Expiration Date:

**12/31/2019**

Jurisdiction:

**UNITED STATES, WASHINGTON**

Formation/Registration Date:

**12/02/2015**

Period of Duration:

**PERPETUAL**

Inactive Date:

Nature of Business:

**HOLDING COMPANY**

**REGISTERED AGENT**     [RCW 23.95.410](#)

---

<b>Registered Agent Name</b>	<b>Street Address</b>	<b>Mailing Address</b>
JEFFERS, DANIELSON, SONN & AYLWARD, P.S.	2600 CHESTER KIMM RD, WENATCHEE, WA, 98801, UNITED STATES	

### PRINCIPAL OFFICE

---

Phone:

**4252326798**

Email:



MICHELLEH@JDSALAW.COM

Street Address:

630 VALLEY MALL PKWY, #157, WENATCHEE, WA, 98802-4838, USA

Mailing Address:

630 VALLEY MALL PKWY, #157, WENATCHEE, WA, 98802-4838, USA

## GOVERNORS

Title	Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL		DAVID	CARLSON

## NATURE OF BUSINESS

HOLDING COMPANY

## EFFECTIVE DATE

Effective Date:

12/21/2018

## CONTROLLING INTEREST

1. Does your company own real property (including leasehold interests) in Washington?

**NO**

2. Has there been a transfer of stock, other financial interest change, or an option agreement exercised during the last 12 months that resulted in a transfer of controlling interest?

**NO**

3. Has an option agreement been executed in the last 12 months allowing for the future purchase or acquisition of the entity, that, if exercised would result in a transfer of controlling interest?

**NO**

You must contact the Washington State Department of Revenue to report a Controlling Interest Transfer **IF**:

\* This company owns land, buildings or other real estate in Washington State,

**AND**

\* Answered "YES" to questions 2 or 3 above.

Failure to report a Controlling Interest Transfer is subject to penalty provisions of RCW 82.45.220.

For more information on **Controlling Interest**, please call the Department of Revenue at (360) 534-1503, option 1, or visit [www.dor.wa.gov/REET](http://www.dor.wa.gov/REET)

## RETURN ADDRESS FOR THIS FILING

Attention:

Email:

Address:

## UPLOAD ADDITIONAL DOCUMENTS

Do you have additional documents to upload? **No**

## EMAIL OPT-IN

By checking this box, I hereby opt into receiving all notifications from the Secretary of State for this entity via email only. I acknowledge that I will no longer receive paper notifications.

# AUTHORIZED PERSON

---

I am an authorized person.

Person Type:

**ENTITY**

First Name:

**COLLEEN**

Last Name:

**FREI**

Entity Name:

**JEFFERS, DANIELSON, SONN & AYLWARD, P.S.**

Title:

**ATTORNEY**

This document is hereby executed under penalty of law and is to the best of my knowledge, true and correct.