

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 OR 15(d)
of the Securities Exchange Act of 1934**

Date of report (Date of earliest event reported): December 29, 2021



BLOOM ENERGY CORPORATION

(Exact name of registrant as specified in its charter)

001-38598
(Commission File Number)

Delaware
(State or other jurisdiction
of incorporation)

4353 North First Street, San Jose, California
(Address of principal executive offices)

77-0565408
(I.R.S. Employer
Identification No.)

95134
(Zip Code)

408 543-1500
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class ⁽¹⁾	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, \$0.0001 par value	BE	New York Stock Exchange

(1) The registrant's Class B Common Stock is not registered but is convertible into shares of Class A Common Stock at the election of the holder.

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01 Entry into a Material Definitive Agreement.

As previously reported in the Current Report on Form 8-K filed on October 25, 2021, Bloom Energy Corporation (the “Company”) entered into a Securities Purchase Agreement (the “Purchase Agreement”) with SK ecoplant Co., Ltd. (“SK ecoplant”) in connection with a strategic partnership. On December 29, 2021, the Company consummated the transactions related to the First Closing (as defined in the Purchase Agreement), including issuing and selling to SK ecoplant 10,000,000 shares of non-voting redeemable convertible Series A preferred stock, par value \$0.0001 per share, of the Company (the “RCPS”), at a purchase price of \$25.50 per share or an aggregate purchase price of approximately \$255 million (the “Initial Investment”). A Certificate of Designation of Series A Redeemable Convertible Preferred Stock (the “Certificate of Designation”) that sets forth the terms, rights and obligations of the RCPS as described in the Current Report on Form 8-K filed on October 25, 2021 was filed with the Secretary of State of Delaware. SK ecoplant must convert the RCPS to Class A Common Stock no later than December 29, 2022 at which time the RCPS will automatically convert into Class A Common Stock.

In addition, on December 29, 2021, the Company and SK ecoplant entered into an Investor Agreement (the “Investor Agreement”) providing for certain rights and restrictions relating to the Initial Investment as described in the Current Report on Form 8-K filed on October 25, 2021.

A copy of the Certificate of Designation and the Investor Agreement are filed herewith as Exhibit 3.1 and Exhibit 10.1, respectively, and incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The disclosure required by this item and included in Item 1.01 of this Current Report related to the RCPS and Certificate of Designation are incorporated herein by reference.

Item 8.01 Other Events.

The disclosure included in Item 1.01 of this Current Report is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit	Description
3.1	<u>Certificate of Designation of Series A Redeemable Convertible Preferred Stock</u>
10.1	<u>Investor Agreement, dated December 29, 2021, by and among the Company and SK ecoplant Co., Ltd.</u>
104	Cover page interactive data file (embedded within the inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

BLOOM ENERGY CORPORATION

Date: December 30, 2021

By: /s/ Gregory Cameron

Gregory Cameron

Executive Vice President and Chief Financial Officer

**CERTIFICATE OF DESIGNATION
OF
SERIES A REDEEMABLE CONVERTIBLE PREFERRED STOCK
OF
BLOOM ENERGY CORPORATION**

Pursuant to Section 151 of the
General Corporation Law of
the State of Delaware

Bloom Energy Corporation (the “Corporation”), a corporation duly organized and existing under the General Corporation Law of the State of Delaware (the “General Corporation Law”), **DOES HEREBY CERTIFY:**

That, pursuant to authority conferred by the Corporation’s Restated Certificate of Incorporation (the “Certificate”), and by the provisions of Section 151 of the General Corporation Law, the board of directors of the Corporation (the “Board”), at a duly called meeting, at which a quorum was present and acted throughout, adopted the following resolutions, which resolutions remain in full force and effect on the date hereof, creating a series of 10,000,000 shares of Preferred Stock having a par value of \$.0001 per share, designated as Series A Redeemable Convertible Preferred Stock:

RESOLVED, that in accordance with the provisions of the Certificate, the Board does hereby create, authorize and provide for the issuance of a series of Preferred Stock, par value \$.0001 per share, of the Corporation, designated as “Series A Redeemable Convertible Preferred Stock,” having the voting rights, powers, preferences and relative, participating, optional and other special rights, preferences, and qualifications, limitations and restrictions thereof that are set forth as follows:

1. Designation and Amount. The shares of such series shall be designated as “Series A Redeemable Convertible Preferred Stock” (the “Series A Preferred Stock”), and the number of shares constituting such series shall be 10,000,000. Such number of shares may be increased or decreased by resolution of the Board (subject to Section 3.2 below), *provided* that no such increase shall increase the number of shares of the Series A Preferred Stock to a number higher than the total number of authorized shares of the class, and no such decrease shall reduce the number of shares of the Series A Preferred Stock to a number lower than the number of shares of such series then outstanding.

2. Liquidation, Dissolution or Winding Up; Certain Mergers, Consolidations and Asset Sales.

2.1 Payments to Holders of Series A Preferred Stock. Subject to the prior and superior rights of the holders of any shares of any other class or series of Preferred Stock, par value \$.0001 per share, of the Corporation (the “Preferred Stock”) ranking prior and superior to the

shares of Series A Preferred Stock with respect to such transactions, in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of the Corporation's Common Stock, par value \$.0001 (the "Common Stock"), by reason of their ownership thereof, each holder of shares of Series A Preferred Stock then outstanding shall be entitled to be paid out of the funds and assets available for distribution to its stockholders, the greater of (x) such holder's Liquidation Preference and (y) the amount such holder would receive pursuant to Section 2.2. "Liquidation Preference" means, as to any holder of Series A Preferred Stock, an amount equal to the number of shares of Series A Preferred Stock held by such holder multiplied by \$25.50 (as adjusted for stock splits, combinations, reorganizations and the like with respect to the Series A Preferred Stock) (the "Original Issue Price"). If upon any such liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation shall be insufficient to pay the holders of shares of Series A Preferred Stock the full amount to which they are entitled under this Section 2.1, the holders of shares of Series A Preferred Stock shall share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Series A Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

2.2 Deemed Conversion of Series A Preferred Stock. For purposes of determining the amount each holder of shares of Series A Preferred Stock is entitled to receive with respect to any voluntary or involuntary liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation, each such holder of shares of Series A Preferred Stock shall be deemed to have converted into a number of shares of Class A Common Stock of the Corporation, par value \$.0001 per share (the "Class A Common Stock"), immediately prior to the liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation equal to the quotient of (a) such holder's Liquidation Preference as of immediately prior to the liquidation, dissolution or winding up or Deemed Liquidation Event of the Corporation divided by (b) the then current Conversion Price. The holder will receive the greater of the amount determined under this Section 2.2 and such holder's Liquidation Preference.

2.3 Deemed Liquidation Events.

2.3.1 Definition. Each of the following events shall be considered a "Deemed Liquidation Event" unless the holders of at least a majority of the then outstanding shares of Series A Preferred Stock (voting as a separate series) elect otherwise by written notice sent to the Corporation at least five (5) days prior to the effective date of any such event:

(a) any transaction (other than (i) transfers of shares of capital stock of the Corporation between or among employees, consultants and/or directors of the Corporation and/or then existing stockholders of the Corporation and (ii) redemptions or repurchases of capital stock by the Corporation) as a result of which the stockholders of the Corporation immediately prior to such transaction no longer hold, immediately following such transaction, shares of capital stock of the Corporation, or equity securities issued upon conversion or exchange of such shares of capital stock, representing at least a majority, by voting power, of the equity securities of either the surviving or resulting party, or if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such transaction, the parent of such surviving or resulting party; *provided that*,

for the purpose of this Section 2.3.1(a), all shares of Common Stock issuable upon conversion, exercise or exchange of any bonds, debentures, notes or other evidences of indebtedness, options, warrants, purchase rights or any other securities convertible into, exercisable for, or exchangeable for Common Stock outstanding immediately prior to such transaction shall be deemed to be outstanding immediately prior to such transaction for purposes of determining the stockholders immediately prior to such transaction and, if applicable, deemed to be converted or exchanged in such transaction on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; and

(b) the sale, lease, exclusive license, transfer or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, whether by purchase and sale, merger, consolidation or otherwise, or, if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation, except where such sale, lease, exclusive license, transfer or other disposition is to the Corporation or one or more wholly owned subsidiaries of the Corporation.

2.3.2 Amount Deemed Paid or Distributed. The funds and assets deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer or other disposition described in this Section 2 shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be deemed its fair market value. Any securities shall be valued as follows:

(a) Securities not subject to investment letter or other similar restrictions on free marketability covered by (b) below:

(i) If traded on a securities exchange, the value shall be deemed to be the average of the closing prices of the securities on such exchange over the twenty (20) trading day period ending three (3) trading days prior to the closing of the Deemed Liquidation Event;

(ii) If actively traded over-the-counter, the value shall be deemed to be the average of the closing bid or sale prices (whichever is applicable) over the twenty (20) trading day period ending three (3) trading days prior to the closing of the Deemed Liquidation Event; and

(iii) If there is no active public market, the value shall be the fair market value thereof, as determined by the Board.

(b) The method of valuation of securities subject to investment letter or other restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall be to make an appropriate discount from the market value determined as above in (a) (i), (ii) or (iii) to reflect the approximate fair market value thereof, as determined by the Board.

2.3.3 Remaining Assets. After payment or setting aside for payment of the full amounts specified in this Section 2 to the holders of the Series A Preferred Stock, any remaining assets of the Corporation legally available for distribution shall be distributed pro rata to the holders of Common Stock in proportion to the number of shares of Common Stock held by them.

2.3.4 Effect of Deemed Liquidation Event. Any share of Series A Preferred Stock in respect of which the holder thereof has received payment in full of the amounts specified in this Section 2 upon the occurrence of a Deemed Liquidation Event shall no longer be deemed to be outstanding, and all rights with respect to such share, including the rights, if any, to receive notices and to vote as Series A Preferred Stock, shall immediately cease and terminate at the time the payment in connection with such Deemed Liquidation Event shall have been made.

3. Voting.

3.1 General. Except as required by law or the Certificate (including any certificate of designation relating to any series of the Preferred Stock) and the matters set forth in Section 3.2, the Series A Preferred Stock shall have no voting rights and no holder thereof shall be entitled to vote on any matter.

3.2 Protective Provisions. At any time when any shares of Series A Preferred Stock originally issued pursuant to that certain Securities Purchase Agreement, dated as of October 23, 2021, by and among the Corporation and the purchaser named therein, as such agreement is amended from time to time (as adjusted for stock splits, combinations, reorganizations and the like with respect to the Series A Preferred Stock), remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate (including any certificate of designation relating to any series of the Preferred Stock)) the affirmative vote of the holders of at least a majority of the then outstanding shares of Series A Preferred Stock, voting as a separate series, unless waived pursuant to Section 8 hereof:

(a) increase the authorized number of shares of Series A Preferred Stock;

(b) authorize or create (by reclassification or otherwise) or issue or sell, or obligate itself to issue or sell, any new class or series of capital stock or any security convertible into or exercisable for any new class or series of capital stock having rights, preferences or privileges (including with respect to any voluntary or involuntary liquidation, dissolution or winding up of the Corporation or any Deemed Liquidation Event set forth in the Certificate (including any certificate of designation relating to any series of Preferred Stock)), as then in effect, that are senior to or on a parity with the Series A Preferred Stock or increase or decrease the authorized number of shares of any such new class or series of capital stock;

(c) amend, modify or repeal any provision of the Certificate (including any certificate of designation relating to any series of Preferred Stock), as then in effect, in a way that adversely affects the rights, preferences or privileges of the Series A Preferred Stock; or

(d) redeem the Series A Preferred Stock in accordance with Section 6.2 hereof.

4. Conversion. The holders of the Series A Preferred Stock shall have conversion rights as follows:

4.1 Right to Convert. Each holder of shares of Series A Preferred Stock then outstanding shall be entitled to convert, at the option of the holder thereof, at any time and from time to time, and without the payment of additional consideration by the holder thereof, some or all of such holder's Series A Preferred Stock into such number of fully paid and nonassessable shares of Class A Common Stock as is determined by dividing (a) the Original Issue Price multiplied by the number of shares of Series A Preferred Stock presented for conversion by (b) the Conversion Price (as defined below) in effect at the time of conversion. The "Conversion Price" shall initially mean \$25.50. The initial Conversion Price, and the rate at which shares of Series A Preferred Stock may be converted into shares of Class A Common Stock, shall be subject to adjustment as provided below.

4.2 Fractional Shares. No fractional shares of Class A Common Stock shall be issued upon conversion of the Series A Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Class A Common Stock as determined in good faith by the Board. Whether or not fractional shares would be issuable upon such conversion shall be determined on the basis of the total number of shares of Series A Preferred Stock the holder is at the time converting into Class A Common Stock and the aggregate number of shares of Class A Common Stock issuable upon such conversion.

4.3 Mechanics of Conversion.

4.3.1 Notice of Conversion. In order for a holder of Series A Preferred Stock to voluntarily convert shares of Series A Preferred Stock into shares of Class A Common Stock, such holder shall surrender the book-entry interests for such shares of Series A Preferred Stock through the facilities of The Depository Trust Company to the transfer agent for the Series A Preferred Stock (or to the Corporation if the Corporation serves as its own transfer agent), together with written notice that such holder elects to convert all or any number of the shares of the Series A Preferred Stock represented by such book-entry interests and, if applicable, any event on which such conversion is contingent (a "Contingency Event"). Such notice shall state such holder's name or the names of the nominees in which such holder wishes shares of Class A Common Stock to be issued. If required by the Corporation, book-entry interests surrendered for conversion shall be accompanied by a written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or such holder's attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of such book-entry interests and notice (or, if later, the date on which all Contingency Events have occurred) shall be the time of conversion (the "Conversion Time"), and the shares of Class A Common Stock issuable upon conversion of the shares represented by such book-entry interests shall be deemed to be

outstanding of record as of such time. The Corporation, as soon as reasonably practicable after the Conversion Time, shall deliver to such holder of Series A Preferred Stock, or to such holder's nominees, book-entry interests for the number of full shares of Class A Common Stock issuable upon such conversion in accordance with the provisions hereof and shall pay in cash such amount as provided in Section 4.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion.

4.3.2 Reservation of Shares. The Corporation shall at all times while any share of Series A Preferred Stock shall be outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Series A Preferred Stock, such number of its duly authorized shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series A Preferred Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock shall not be sufficient to effect the conversion of all outstanding shares of Series A Preferred Stock, the Corporation shall take, or use its best efforts to cause such corporate action to be taken, as may be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to the Certificate (including this certificate of designation). Before taking any action that would cause an adjustment reducing the Conversion Price below the then par value of the shares of Class A Common Stock issuable upon conversion of the Series A Preferred Stock, the Corporation will take any corporate action that may, in the opinion of its counsel, be necessary so that the Corporation may validly and legally issue fully paid and nonassessable shares of Class A Common Stock at such adjusted Conversion Price.

4.3.3 Effect of Conversion. All shares of Series A Preferred Stock that shall have been surrendered for conversion as provided herein, including in Section 4.10, shall no longer be deemed to be outstanding, and all rights with respect to such shares, including the rights, if any, to receive notices and to vote as Series A Preferred Stock, shall immediately cease and terminate at the Conversion Time (or the Mandatory Conversion Time (as defined below) in the case of a conversion pursuant to Section 4.10), except only the right of the holders thereof to receive shares of Class A Common Stock in exchange therefor and to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in this Section 4. Any shares of Series A Preferred Stock converted pursuant to this Section 4, including Section 4.10, shall be retired and cancelled and may not be reissued.

4.4 Adjustment for Stock Splits and Combinations. If the Corporation shall at any time or from time to time after the date on which the first share of Series A Preferred Stock is issued by the Corporation (such date referred to herein as the "Original Issue Date") effect a subdivision of the outstanding Class A Common Stock, the Conversion Price in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Class A Common Stock issuable on conversion of each share of Series A Preferred Stock shall be increased in proportion to such increase in the aggregate number of shares of Class A Common Stock outstanding. If the Corporation shall at any time or from time to time after the Original Issue Date combine the outstanding shares of Class A Common Stock, the Conversion Price in effect immediately before the combination shall be proportionately increased so that the number of shares of Class A Common Stock issuable on conversion of each share of Series A

Preferred Stock shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 4.4 shall become effective at the close of business on the date the subdivision or combination becomes effective.

4.5 Adjustment for Certain Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue shall make or issue, or fix a record date for the determination of holders of Class A Common Stock entitled to receive, a dividend or other distribution payable on the Class A Common Stock in additional shares of Class A Common Stock, then and in each such event the Conversion Price in effect immediately before such event shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record date, by multiplying such Conversion Price then in effect by a fraction:

(a) the numerator of which shall be the total number of shares of Class A Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; and

(b) the denominator of which shall be the total number of shares of Class A Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date plus the number of shares of Class A Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing: (i) if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, such Conversion Price shall be recomputed accordingly as of the close of business on such record date, and thereafter such Conversion Price shall be adjusted pursuant to this Section 4.5 as of the time of actual payment of such dividends or distributions; and (ii) no such adjustment shall be made if the holders of Series A Preferred Stock simultaneously receive (A) a dividend or other distribution of shares of Class A Common Stock in a number equal to the number of shares of Class A Common Stock that they would have received if all outstanding shares of Series A Preferred Stock had been converted into Class A Common Stock on the date of such event or (B) a dividend or other distribution of shares of Series A Preferred Stock which are convertible, as of the date of such event, into such number of shares of Class A Common Stock as is equal to the number of shares of Class A Common Stock that they would have received if all outstanding shares of Series A Preferred Stock had been converted into Class A Common Stock on the date of such event.

4.6 Adjustments for Other Dividends and Distributions. In the event the Corporation at any time or from time to time after the Original Issue Date shall make or issue, or fix a record date for the determination of holders of Class A Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Class A Common Stock in respect of outstanding shares of Class A Common Stock), then and in each such event the holders of Series A Preferred Stock shall receive, simultaneously with the distribution to the holders of Class A Common Stock, a dividend or other distribution of such securities in an amount equal to the amount of such securities as they would have received if all outstanding shares of Series A Preferred Stock had been converted into Class A Common Stock on the date of such event.

4.7 Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the Original Issue Date, the Class A Common Stock issuable upon the conversion of any shares of Series A Preferred Stock is changed into the same or a different number of shares of any class or classes of stock of the Corporation, whether by recapitalization, reclassification, or otherwise (other than by a stock split or combination, dividend, distribution, merger or consolidation covered by Sections 4.4, 4.5, 4.6 or 4.8 or in a Deemed Liquidation Event), then in any such event each holder of outstanding Series A Preferred Stock shall have the right thereafter to convert such stock into the kind and amount of stock and other securities receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Class A Common Stock into which such outstanding shares of Series A Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change.

4.8 Adjustment for Merger or Consolidation. Subject to the provisions of Section 2.2, if there shall occur any consolidation or merger involving the Corporation in which the Class A Common Stock (but not the Series A Preferred Stock) is converted into or exchanged for securities, cash or other property (other than a transaction covered by Sections 4.4, 4.5, 4.6 or 4.7 or a Deemed Liquidation Event), then, following any such consolidation or merger, provision shall be made that each share of Series A Preferred Stock shall thereafter be convertible, in lieu of the Class A Common Stock into which it was convertible prior to such event, into the kind and amount of securities, cash or other property which a holder of the number of shares of Class A Common Stock of the Corporation issuable upon conversion of one outstanding share of Series A Preferred Stock immediately prior to such consolidation or merger would have been entitled to receive pursuant to such transaction; and, in such case, appropriate adjustment (as determined in good faith by the Board) shall be made in the application of the provisions in this Section 4 with respect to the rights and interests thereafter of the holders of Series A Preferred Stock, to the end that the provisions set forth in this Section 4 (including provisions with respect to changes in and other adjustments of the Conversion Price) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of Series A Preferred Stock.

4.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price pursuant to this Section 4, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than thirty (30) days thereafter, compute such adjustment or readjustment in accordance with the terms hereof and furnish to each holder of Series A Preferred Stock a certificate setting forth such adjustment or readjustment (including the kind and amount of securities, cash or other property into which the Series A Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of Series A Preferred Stock (but in any event not later than fifteen (15) days thereafter, furnish or cause to be furnished to such holder a certificate setting forth (a) the Conversion Price then in effect and (b) the number of shares of Class A Common Stock and the amount, if any, of other securities, cash or property which then would be received upon the conversion of the Series A Preferred Stock.

4.10 Mandatory Conversion. On the first anniversary of the Original Issue Date (the “Mandatory Conversion Time”), all outstanding shares of Series A Preferred Stock shall automatically be converted into shares of Class A Common Stock, at the applicable ratio described in Section 4.1 as the same may be adjusted from time to time in accordance with Section 4, and such shares may not be reissued by the Corporation.

4.10.1 Procedural Requirements. All holders of record of shares of Series A Preferred Stock shall be sent written notice of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Series A Preferred Stock in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of such notice, each holder of shares of Series A Preferred Stock shall surrender such holder's book-entry interests for all such shares in the same manner provided for in Section 4.3.1 and shall thereafter receive the number of shares of Class A Common Stock to which such holder is entitled pursuant to this Section 4. As soon as practicable after the Mandatory Conversion Time and the surrender of the book-entry interests for Series A Preferred Stock, the Corporation shall issue and deliver to such holder, or to such holder's nominee(s), book-entry interests (if any) for the number of full shares of Class A Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Section 4.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion.

5. Dividends. The holders of Series A Preferred Stock shall not be entitled to receive dividends.

6. Redemption.

6.1 Redemption upon Election by the Holders of Series A Preferred Stock. Shares of Series A Preferred Stock shall not be redeemable upon the election of the holders of Series A Preferred Stock.

6.2 Redemption upon Election by the Corporation. Subject to Section 3.2(d) hereof, each share of Series A Preferred Stock (and not fewer than all shares of Series A Preferred Stock) shall be redeemed by the Corporation out of funds lawfully available therefor at the Redemption Price (as defined below) in one installment commencing on a date (the "Redemption Date") not less than sixty (60) days after and not more than ninety (90) days after the Corporation sends to the holders of all then outstanding shares of Series A Preferred Stock written notice of the redemption of all shares of Series A Preferred Stock (the "Redemption Notice"); provided that the Corporation shall not send the Redemption Notice until ten (10) months have passed from the Original Issue Date. The Redemption Notice shall be irrevocable and shall state (i) the number of shares of Series A Preferred Stock held by the holder that the Corporation shall redeem on the Redemption Date; (ii) the Redemption Date and the Redemption Price; and (iii) that the holder is to surrender to the Corporation, in the manner and at the place designated, such holder's book-entry interests representing shares of Series A Preferred Stock to be redeemed. For purposes of this Section 6.2, "Redemption Price" shall mean \$255,000,000 divided by the number of then outstanding shares of Series A Preferred Stock.

6.2.1 Surrender of Book-Entry Interests; Payment. On or before the Redemption Date, each holder of shares of Series A Preferred Stock to be redeemed, unless such holder has exercised such holder's right to convert such shares as provided in Section 4 prior to the date that is thirty (30) days after the date of the Redemption Notice, shall surrender the book-entry interests representing such shares to the Corporation, in the manner and at the place designated in the Redemption Notice, and thereupon the Redemption Price for such shares shall be payable to the order of the person indicated as the owner of such book-entry interests.

6.2.2 Rights Subsequent to Redemption. If the Redemption Notice shall have been duly given, and if on or prior to the Redemption Date the Redemption Price payable upon redemption of the shares of Series A Preferred Stock to be redeemed is paid or tendered for payment or deposited with an independent payment agent so as to be available therefor in a timely manner, then notwithstanding that the book-entry interests evidencing any of the shares of Series A Preferred Stock so called for redemption shall not have been surrendered, all rights with respect to such shares shall forthwith after the Redemption Date terminate, except only the right of the holders to receive the Redemption Price without interest upon surrender of their book-entry interests therefor.

7. Reissuance of Series A Preferred Stock. Any shares of Series A Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries shall be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Series A Preferred Stock following redemption.

8. Waiver. Any of the rights, powers, privileges and other terms of the Series A Preferred Stock set forth herein may be waived on behalf of all holders of Series A Preferred Stock by a written waiver from the holders of at least a majority of the then outstanding shares of Series A Preferred Stock.

9. Notices. Except as otherwise provided herein, any notice required or permitted by the provisions of this Certificate of Designation to be given to a holder of shares of Series A Preferred Stock shall be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and shall be deemed sent upon such mailing or electronic transmission.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation to be executed on behalf of the Corporation by the undersigned authorized officer this 28th day of December, 2021.

Bloom Energy Corporation

By: /s/ Gregory Cameron

Name: Gregory Cameron

Title: EVP, Chief Financial Officer

INVESTOR AGREEMENT

By and Between

SK ECOPLANT CO., LTD.

AND

BLOOM ENERGY CORPORATION

Dated as of December 29, 2021

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INVESTOR AGREEMENT

THIS INVESTOR AGREEMENT (this “**Agreement**”) is made as of December 29, 2021, by and between SK ecoplant Co., Ltd. (the “**Investor**”) and Bloom Energy Corporation, a Delaware corporation (the “**Company**”).

WHEREAS, the Securities Purchase Agreement, dated as of October 23, 2021, by and between the Investor and the Company (the “**Purchase Agreement**”) provides for the issuance and sale by the Company to the Investor, and the purchase by the Investor, of the First Tranche Shares (as defined in the Purchase Agreement) and the Second Tranche Shares (as defined in the Purchase Agreement) (the First Tranche Shares, the Second Tranche Shares and the Conversion Shares (as defined in the Purchase Agreement), collectively, the “**Purchased Securities**”); and

WHEREAS, as a condition to consummating the transactions contemplated by the Purchase Agreement, the Investor and the Company have agreed upon certain rights and restrictions as set forth herein with respect to the Purchased Securities and other securities of the Company beneficially owned by the Investor, and it is a condition to the First Closing (as defined in the Purchase Agreement) that this Agreement be executed and delivered by the Investor and the Company.

NOW, THEREFORE, in consideration of the premises and mutual agreements hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

(a) “**Acceptance Notice**” shall have the meanings set forth in Section 6.2.

(b) “**Acquisition Proposal**” shall have the meaning set forth in Section 2.1(d).

(c) “**Affiliate**” shall mean, with respect to any Person, another Person that controls, is controlled by or is under common control with such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. Without limiting the generality of the foregoing, a Person shall be deemed to control another Person if any of the following conditions is met: (i) in the case of corporate entities, direct or indirect ownership of more than fifty percent (50%) of the stock or shares having the right to vote for the election of directors, and (ii) in the case of non-corporate entities, direct or indirect ownership of more than fifty percent (50%) of the equity interest with the power to direct the management and policies of such non-corporate entities. For the purposes of this Agreement, in no event shall (x) the Investor or any of its Affiliates be deemed Affiliates of the Company or any of its Affiliates; (y) the Company or any of its Affiliates be deemed Affiliates of the Investor or any of its Affiliates; and (z) any joint venture entity or any other Person formed pursuant to the Joint Venture Agreement or the Preferred Distributor Agreement be deemed an Affiliate of either the Company or the Investor.

(d) “**Agreement**” shall have the meaning set forth in the Preamble, including all Exhibits attached hereto.

(e) “**Arbitration**” shall have the meaning set forth in Section 7.2.

(f) “**Award**” shall have the meaning set forth in Section 7.2.

(g) “**beneficial owner**,” “**beneficially owns**,” “**beneficial ownership**” and terms of similar import used in this Agreement shall, with respect to a Person, have the meaning set forth in Rule 13d-3 under the Exchange Act (i) assuming the full conversion into, and exercise and exchange for, shares of Common Stock of all Common Stock Equivalents beneficially owned by such Person and (ii) determined without regard for the number of days within which such Person has the right to acquire such beneficial ownership.

(h) “**Board**” shall mean the Board of Directors of the Company.

(i) “**Business Combination**” shall have the meaning set forth in Section 2.1(g).

(j) “**Business Day**” shall mean a day on which commercial banking institutions in New York, New York and Seoul, the Republic of Korea are open for business.

(k) “**Cap**” shall mean fifteen percent (15%) of the issued and outstanding capital stock of the Company.

(l) “**Change of Control**” shall mean, with respect to the Company, any of the following events: (i) any Person is or becomes the beneficial owner (except that a Person shall be deemed to have beneficial ownership of all shares that any such Person has the right to acquire, whether such right which may be exercised immediately or only after the passage of time), directly or indirectly, of a majority of the total voting power represented by all shares of Common Stock and any other voting securities of the Company then issued and outstanding; (ii) the Company consolidates with or merges into another corporation or entity, or any corporation or entity consolidates with or merges into the Company, other than (A) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof) a majority of the combined voting power of the voting securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (B) a merger or consolidation effected to implement a recapitalization of the Company (or similar transaction) in which no Person becomes the beneficial owner, directly or indirectly, of a majority of the total voting power of all shares of Common Stock and any other voting securities of the Company then issued and outstanding or (iii) the Company conveys, transfers or leases all or substantially all of its assets to any Person other than a wholly-owned Affiliate of the Company.

(m) “**Class A Common Stock**” shall mean the Class A Common Stock of the Company, \$0.0001 par value per share.

(n) “**Class B Common Stock**” shall mean the Class B Common Stock of the Company, \$0.0001 par value per share.

(o) “**Commercial Cooperation Agreement**” shall mean the Commercial Cooperation Agreement, dated as of the date of the Purchase Agreement, by and between the Company and SK ecoplant Co., Ltd., as may be amended, modified and supplemented, from time to time.

(p) “**Common Stock**” shall mean the Class A Common Stock, the Class B Common Stock and any other class of common stock of the Company authorized whether now or hereafter.

(q) “**Common Stock Equivalents**” shall mean any options, warrants or other securities or rights convertible into or exercisable or exchangeable for, whether directly or following conversion into or exercise or exchange for other options, warrants or other securities or rights, shares of Common Stock.

(r) “**Company**” shall have the meaning set forth in the Preamble.

(s) “**Derivative**” shall have the meaning set forth in Section 2.1(a).

(t) “**Director Conditions**” shall have the meaning set forth in Section 5(b).

(u) “**Director Period**” shall mean the period commencing on the Second Closing Date and ending on the date on which the Investor (including SK ecoplant and the SPV) and its Subsidiaries beneficially own less than five percent (5.0%) of the shares of Common Stock then issued and outstanding.

(v) “**Disposition**” or “**Dispose of**” shall mean any (i) offer, sale, contract to sell, sale of any option or contract to purchase, purchase of any option or contract to sell, grant of any option, right or warrant for the sale of, or other disposition of or transfer of any shares of Common Stock, or any Common Stock Equivalents, including, without limitation, any “short sale” or similar arrangement, or (ii) hedge, swap or any other agreement or transaction that transfers, in whole or in part, directly or indirectly, any of the economic consequence of ownership of shares of Common Stock, whether any such hedge, swap, agreement or transaction is to be settled by delivery of Common Stock, other securities, in cash or otherwise.

(w) “**Dispute**” shall have the meaning set forth in Section 7.2.

(x) “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

(y) “**First Closing Date**” shall have the meaning set forth in the Purchase Agreement.

(z) “**Governmental Authority**” shall mean any court, agency, authority, department, or other instrumentality of any government or country or of any national, federal, state, provincial, regional, county, city or other political subdivision of any such government or country or any supranational organization of which any such country is a member.

(aa) “**ICC Arbitration Rules**” shall have the meaning set forth in Section 7.2.

(bb) “**Investor**” shall have the meaning set forth in the Preamble.

(cc) “**Investor Designee**” shall have the meaning set forth in Section 5(a).

(dd) “**Joint Venture Agreement**” shall mean the Joint Venture Agreement, dated September 24, 2019, by and between the Company and SK ecoplant Co., Ltd. (f/k/a SK Engineering & Construction Co., Ltd.), as may be amended, modified and supplemented, from time to time.

(ee) “**Law**” or “**Laws**” shall mean all laws, statutes, rules, regulations, orders, judgments, injunctions and/or ordinances of any Governmental Authority.

(ff) “**Lock-Up Term**” shall have the meaning set forth in Section 3.1.

(gg) “**Modified Clause**” shall have the meaning set forth in Section 7.8.

(hh) “**New Securities**” shall mean any shares of Common Stock or Common Stock Equivalents, except for (a) shares of Common Stock or Common Stock Equivalents that are issued pursuant to the Company’s stock option and incentive plans or other employee or director compensation plans; (b) shares of Common Stock or Common Stock Equivalents that are issued as matching contributions under the Company’s 401(k) plan; (c) shares of Common Stock or Common Stock Equivalents that are issued as a dividend or other distribution on outstanding securities of the Company; (d) shares of Common Stock or Common Stock Equivalents that are issued by reason of a stock split, split-up or other reorganization or recapitalization of the Company; (e) shares of Common Stock or Common Stock Equivalents issued as acquisition consideration pursuant to the acquisition of another Person by the Company by merger, purchase of substantially all of the assets or other reorganization or to a joint venture agreement; and (f) the Preemptive Right Shares.

(ii) “**Offeror**” shall have the meaning set forth in Section 2.1(d).

(jj) “**Permitted Purchases**” shall mean purchases of Common Stock by the Investor, subject to compliance with Section 3.1 to the extent necessary to maintain its status as the largest shareholder of the Company by no less than one percent (1%) of the issued and outstanding capital stock of the Company, provided that in no event shall the Investor’s ownership exceed the Cap.

(kk) “**Person**” shall mean any individual, partnership, limited liability company, firm, corporation, trust, unincorporated organization, government or any department or agency thereof or other entity, as well as any syndicate or group that would be deemed to be a Person under Section 13(d)(3) of the Exchange Act.

(ll) “**Preemptive Right Notice**” shall have the meaning set forth in Section 6.2.

(mm) “**Preemptive Right Shares**” shall have the meaning set forth in Section 6.1.

(nn) “**Preferred Distributor Agreement**” shall mean the Amended and Restated Preferred Distributor Agreement, dated as of the date of the Purchase Agreement, by and among the Company, SK ecoplant Co., Ltd. and Bloom SK Fuel Cell, LLC, as may be amended, modified and supplemented, from time to time.

(oo) “**Purchase Agreement**” shall have the meaning set forth in the Preamble, and shall include all Exhibits attached thereto.

(pp) “**Purchased Securities**” shall have the meaning set forth in the Preamble, and shall be adjusted for (i) any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization and (ii) any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the Purchased Securities.

(qq) “**registers**,” “**registered**,” and “**registration**” refer to a registration effected by preparing and filing a Registration Statement or similar document in compliance with the Securities Act, and the declaration or ordering of effectiveness of such Registration Statement or document by the SEC.

(rr) “**Registration Statement**” means a registration statement filed by the Company with the SEC in compliance with the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder for the registration of securities.

(ss) “**Representatives**” shall mean, with respect to any Person, its officers, directors, principals, partners, managers, members, employees, consultants, agents, financial advisors, investment bankers, attorneys, accountants, potential debt and equity financing sources (excluding any co-investors), and other representatives. For the avoidance of doubt, potential debt and equity financing sources are Representatives, whether or not the Investor contacts any one of them before or after the First Closing Date.

(tt) “**SEC**” shall mean the United States Securities and Exchange Commission.

(uu) “**Second Closing**” shall have the meaning set forth in the Purchase Agreement.

(vv) “**Second Closing Date**” shall have the meaning set forth in the Purchase Agreement.

(ww) “**Securities Act**” shall mean the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

(xx) “**SK ecoplant**” shall mean SK ecoplant Co., Ltd.

(yy) “**SPV**” shall have the meaning set forth in the Purchase Agreement.

(zz) “**Standstill Term**” shall have the meaning set forth in Section 2.1.

(aaa) “**Subsidiary**” shall mean, with respect to any Person, any other Person of which such Person (either alone or through or together with any other subsidiary) owns, directly or indirectly, fifty percent (50%) or more of the outstanding equity securities or securities carrying the voting power in the election of the board of directors or other governing body of such Person.

(bbb) “**Third Party**” shall mean any Person other than the Investor or any of its Affiliates.

(ccc) “**Tribunal**” shall have the meaning set forth in Section 7.2.

2. Restrictions on Beneficial Ownership.

2.1 Standstill. During the period (such period, the “**Standstill Term**”) commencing as of the First Closing Date and continuing until the later of (i) the second (2nd) anniversary of the Second Closing Date, (ii) the date on which the Investor ceases to have the right to designate a director to the Board pursuant to Section 5, and (iii) the date on which the Investor (including SK ecoplant and SPV) and its Subsidiaries beneficially own less than five percent (5.0%) of the shares of Common Stock then issued and outstanding, the Investor (including SK ecoplant and the SPV) and its Subsidiaries shall not do any of the following, except as approved, invited or waived by the Company or the Board, or as contemplated by this Agreement:

(a) other than Permitted Purchases and purchases of Preemptive Right Shares, directly or indirectly, acquire beneficial ownership of Common Stock and/or Common Stock Equivalents and/or any instrument that gives the Investor the economic equivalent of ownership of an amount of securities of the Company (a “**Derivative**”), except, nothing in this Section 2.1(a) shall prevent or prohibit the Investor from investing in a fund with respect to which the Investor does not have or share decision-making authority over investment or divestment decisions;

(b) make a tender, exchange or other public offer to acquire Common Stock and/or Common Stock Equivalents;

(c) directly or indirectly, (i) seek to have called any meeting of the stockholders of the Company or propose any matter to be voted upon by the stockholders of the Company, or (ii) propose or nominate for election to the Board any person whose nomination has not been approved by a majority of the Board (excluding the Investor Designee, if any);

(d) directly or indirectly, encourage, accept or support a tender, exchange or other offer or proposal by any other Person or group (an “**Offeror**”) for securities of the Company (if such offer or proposal would, if consummated, result in a Change of Control of the Company, such offer or proposal is referred to as an “**Acquisition Proposal**”);

(e) directly or indirectly, solicit proxies or consents or propose or seek or become a participant in a solicitation (as such terms are defined in Regulation 14A under the Exchange Act), or seek to advise or influence any Person, with respect to voting of any securities of the Company;

(f) deposit any securities of the Company in a voting trust or subject any securities of the Company to any arrangement or agreement with respect to the voting of such securities, including the granting of any proxy (other than pursuant to this Agreement);

(g) propose (i) any merger, consolidation, business combination, tender or exchange offer, purchase of the Company's assets or businesses, purchase of any securities of the Company or any Derivative, or any similar transaction involving the Company or (ii) any recapitalization, restructuring, liquidation or other extraordinary transaction with respect to the Company, in each case without the prior written consent of the Board (a transaction described in clauses (i) and (ii) that would result in a Change of Control, is referred to as a "**Business Combination**");

(h) act in concert with any Third Party to take any action in clauses (a) through (g) above, or, directly or indirectly, form, join or in any way participate in a "partnership, limited partnership, syndicate, or other group" as such terms are used in the rules of the SEC with respect to the Company or any securities of the Company;

(i) request or propose to the Board or the Company (or any of its officers, directors, Affiliates employees, attorneys, accountants, financial advisors and other professional representatives), directly or indirectly, any amendment or waiver of any provision of this Section 2.1 (including this clause (i));

(j) make any public announcement regarding, or take any action that could require the Company to make a public announcement regarding, a potential Business Combination or any of the matters set forth in clauses (a) through (i) above; or

(k) enter into discussions, negotiations, arrangements or agreements with any Person relating to the foregoing actions referred to in (a) through (i) above;

provided, however, that nothing contained in this Section 2.1 shall prevent, restrict, encumber, or limit in any manner: (A) the Investor or any of its Affiliates from making confidential, nonpublic proposals to the Board for a transaction involving a Business Combination following the public announcement by the Company after the Second Closing Date that it has entered into a definitive agreement with a Third Party for a transaction involving a Business Combination; (B) the Investor Designee from performing its duties as a member of the Board; or (C) the Investor or any of its Affiliates from exercising their respective rights, performing their respective obligations or otherwise consummating the transactions contemplated by this Agreement, the Purchase Agreement, Joint Venture Agreement, or the Preferred Distributor Agreement, in each case, in accordance with the terms hereof and thereof.

2.2 Waiver. Notwithstanding anything to the contrary set forth herein, including Section 2.1(i), upon request by Investor that Section 2.1(a) be waived, the Investor and the Company shall discuss in good faith whether such request shall be granted.

2.4 Termination of Standstill. Notwithstanding anything to the contrary contained in this Agreement, the Standstill Term shall terminate upon the occurrence of any of the following events:

- (a) a Change of Control;
- (b) the Company files a Schedule 14D-9 (or successor form of Tender Offer Solicitation/Recommendation Statement under Rule 14d-9 of the Exchange Act) recommending that stockholders accept any such offer filed after such offer has commenced; or
- (c) a breach by the Company of any provision of the Purchase Agreement or this Agreement after the First Closing and prior to the Second Closing.

3. Restrictions on Dispositions.

3.1 Lock-Up. During the period (such period, the “**Lock-Up Term**”) commencing as of the Second Closing Date and continuing until the second (2nd) anniversary of the Second Closing Date, the Investor (including SK ecoplant and the SPV) and its Subsidiaries shall not, except with the prior consent of a majority of the Board (excluding the Investor Designee, if any):

(a) Dispose of any of the Purchased Securities or any other shares of Common Stock beneficially owned by it as of the date of this Agreement, together with any shares of Common Stock issued in respect thereof as a result of any stock split, stock dividend, share exchange, merger, consolidation or similar recapitalization; or

(b) Dispose of any Common Stock issued as (or issuable upon the exercise of any warrant, right or other security that is issued as) a dividend or other distribution with respect to, or in exchange or in replacement of, the shares of Common Stock described in clause (a) above.

3.2 Termination of Lock-Up. Notwithstanding anything to the contrary contained herein, the Lock-Up Term shall terminate upon the occurrence of any of the following events:

- (a) a Change of Control; or
- (b) the Company files a Schedule 14D-9 (or successor form of Tender Offer Solicitation/Recommendation Statement under Rule 14d-9 of the Exchange Act) recommending that stockholders accept any such offer filed after such offer has commenced.

3.3 Effect of Prohibited Disposition. If any Disposition is made or attempted contrary to the provisions of this Agreement, (a) such purported Disposition shall be void ab initio, (b) the Company shall have, in addition to all other legal or equitable remedies that it may have, the right to injunctive relief and specific performance to enforce the provisions of this Agreement, and (c) the Company shall have the right to refuse to recognize any transferee in a Disposition as a stockholder for any purpose.

4. Voting Agreement.

4.1 Voting of Securities. Subject to Section 4.3, from the Second Closing Date until termination or expiration of the Standstill Term, in any vote or action by written consent of the stockholders of the Company (including, without limitation, with respect to the election of directors), the Investor shall vote or execute a written consent with respect to all voting securities of the Company as to which it is entitled to vote or execute a written consent in accordance with the recommendation of a majority of the Board. In furtherance of this Section 4.1, the Investor shall, if and when requested by the Company from time to time, promptly execute and deliver to the Company an irrevocable proxy, substantially in the form of Exhibit A attached hereto, and irrevocably appoint the Company or its designees, with full power of substitution, its attorney, agent and proxy to vote (or cause to be voted) or to give consent with respect to, all of the voting securities of the Company as to which the Investor is entitled to vote, in the manner and with respect to the matters set forth in this Section 4.1. The Investor acknowledges that any such proxy executed and delivered shall be coupled with an interest, shall constitute, among other things, an inducement for the Company to enter into this Agreement, shall be irrevocable and binding on any successor in interest of the Investor and shall not be terminated by operation of Law upon the occurrence of any event. Such proxy shall operate to revoke and render void any prior proxy as to any voting securities of the Company heretofore granted by the Investor, to the extent it is inconsistent herewith. Such proxy shall terminate upon the earlier of the expiration or termination of the Standstill Term and this Section 4.1. For the avoidance of doubt, this Section 4.1 and the proxies granted pursuant to this Section 4.1 shall not apply to any voting securities of the Company held by an executive officer or director of the Investor for his or her personal account or to any matters to which Investor retains voting rights pursuant to Section 4.3.

4.2 Quorum. In furtherance of Section 4.1, the Investor shall be present in person or represented by proxy at all meetings of stockholders to the extent necessary so that all voting securities of the Company as to which they are entitled to vote shall be counted as present for the purpose of determining the presence of a quorum at such meeting.

4.3 Exceptions. Notwithstanding anything to the contrary contained in this Agreement, the Investor may vote, or execute a written consent with respect to, any or all of the voting securities of the Company as to which it is entitled to vote or execute a written consent, as it may determine in its sole discretion with respect to any matter presented to the shareholders of the Company regarding any transaction between the Company and any Korean company operating in the Korean construction business.

5. Board Composition.

(a) Subject to the terms of this Section 5, effective as of the Second Closing Date, the Board will appoint a designee of the Investor (the “**Investor Designee**”) as a director of the Company for a term expiring at the Company’s next annual meeting of stockholders or upon such Investor Designee’s earlier death, disability, resignation or removal (including removal by operation of Law). The Company and the Investor shall agree on the identity of the Investor Designee prior to the Second Closing Date and such agreement shall be a condition precedent to the obligation of each of the Company and the Investor to consummate the Second Closing. The Company agrees that, during the Director Period, the Board shall nominate the

individual serving as such Investor Designee (or any individual subsequently designated by the Investor to serve as the Investor Designee) for election or re-election, as the case may be, as a director at each subsequent meeting of the Company's stockholders at which directors are to be elected, and use commercially reasonable efforts to cause the Investor Designee to be elected or re-elected, including providing the same level of support as is provided for other nominees. Upon the end of the Director Period, the Investor shall cause the Investor Designee to tender to the Board, as soon as practicable and in any event within five (5) days following the end of the Director Period, his or her resignation from the Board. During the Director Period, the Board will not decrease the size of the Board if such decrease would require the resignation of the Investor Designee.

(b) As a condition to any appointment or nomination for election to the Board, each Investor Designee shall (i) meet the qualifications required of all directors of the Company by the Company's Nominating and Corporate Governance Committee and those mandated by applicable Law, (ii) agree, in writing, to be bound by the terms and conditions of all of the Company's policies applicable to its directors, (iii) make such acknowledgements and enter into such agreements as the Company requires of all directors, including, without limitation, with respect to confidentiality, the Company's code of ethics, insider trading policy and Section 16 reporting procedures, and (iv) be able to dedicate sufficient time and resources for the diligent performance of the duties required of a member of the Board (the "**Director Conditions**"). Without limiting the foregoing, each proposed Investor Designee shall be subject to satisfaction of the criteria for Board membership established by the Nominating and Corporate Governance Committee of the Board, including the director qualification criteria thereof, as determined in the reasonable and good faith discretion of the Nominating and Corporate Governance Committee of the Board and the Board in the same manner as the Nominating and Corporate Governance Committee of the Board and the Board would consider any candidate for Board membership. The Board or the Nominating and Corporate Governance Committee of the Board will evaluate the Investor Designee for potential roles on the committees of the Board, consistent with evaluations of other directors for such positions and subject to applicable Law and the listing rules and requirements of The New York Stock Exchange.

(c) If an Investor Designee resigns from the Board, is removed, or refuses or is unable to serve or fulfill his or her duties as a director because of death or disability, in each case prior to the expiration of the Director Period, the Investor shall have the right to select a replacement Investor Designee, reasonably acceptable to the Board and subject to compliance with the Director Conditions, and shall provide the Company with the name of and relevant background information for such replacement Investor Designee. Subject to the terms of this Section 5, within twenty (20) days following receipt of such information and compliance with the Director Conditions, the Board will appoint such replacement Investor Designee to the Board to replace the departing Investor Designee to serve the remaining term of the departing Investor Designee, and the replacement Investor Designee shall be considered an Investor Designee for all purposes of this Section 5.

(d) All confidential or proprietary information and data relating to the Company and its Affiliates provided by the Company to the Investor Designee shall be deemed confidential information and will be kept confidential and not disclosed to any Person outside of the Company. Notwithstanding the confidentiality obligations set forth in Section 5(b)(iii) and the foregoing, and subject to Section 7.16, the Investor Designee shall be permitted to disclose such confidential information to the executive officers and members of the board of directors (or equivalent

governance body) of SK ecoplant and its Subsidiaries and their advisers (such as legal counsel) having a duty of confidentiality to the Investor, provided (i) such disclosure is made on a need-to-know basis solely for the purposes of, and to the extent necessary to, monitor and make decisions regarding the Investor's investment in the Company, and (ii) that the Investor (whether SK ecoplant or the SVP) will be liable for any breach by any of such Persons of the confidentiality obligations applicable to the Investor Designee. Upon the resignation or removal of the Investor Designee from the Board and written request (including via email) from the Company, such Investor Designee shall either promptly (x) destroy all confidential information of the Company that he or she received in his or her capacity as a director in his or her possession or control and any copies thereof or (y) return to the Company all confidential information of the Company that he or she received in his or her capacity as a director in his or her possession or control and any copies thereof (but the Investor Designee need not purge electronic archives and backups), and, in either case, confirm in writing (which may be via email) to the Company that all such material has been destroyed or returned, as applicable, in compliance with this Section 5.

(e) If any Investor Designee is an employee of, or otherwise compensated by, the Investor or any of its Affiliates, such Investor Designee shall not be entitled to any compensation from the Company in connection with his or her role as a director or service on the Board or any committee. The Investor Designee will be entitled to reimbursement from the Company of out of pocket expenses in connection with his or her role as a director consistent with other directors on the Board.

(f) Notwithstanding anything contained herein to the contrary, if the Board (or any committee thereof) shall consider (i) a proposed contract, transaction or other arrangement between the Investor or any of its Affiliates, on the one hand, and the Company or any of its Affiliates, on the other hand, (ii) the enforcement or waiver of the rights of the Company or any of its Affiliates under any agreement between the Investor or any of its Affiliates, on the one hand, and the Company or any of its Affiliates, on the other hand, or (iii) a matter which the Board determines in good faith presents an actual or potential conflict of interest for the Investor Designee, then the Investor Designee will, if directed by the chairperson of the Board or the remaining directors, be excluded from participation in such Board or committee meeting (or portion thereof, as applicable) at which such matters are to be discussed, and the Investor Designee will not be entitled to receive copies of the materials or other documents relating to such matter or meeting (or portion thereof, as applicable).

6. Preemptive Rights

6.1 General. After the Second Closing Date, if the Company proposes to issue any New Securities, the Investor shall have the right to purchase up to such number of New Securities as required to maintain its fully-diluted ownership as at immediately prior to the issuance of such New Securities, on the same terms and conditions that are applicable to such New Securities, and at a price per share or security equal to the price paid by the purchaser(s) in such issuance of New Securities (such shares, the "**Preemptive Right Shares**"). For purposes of this Section 6, "**fully-diluted ownership**" shall mean the issued and outstanding Common Stock of the Company, assuming the conversion of all Common Stock Equivalents.

6.2 Procedures. After the Second Closing Date, in the event that the Company proposes to issue any New Securities, it shall, prior to such issuance of New Securities, deliver a written notice to the Investor (a “**Preemptive Right Notice**”), stating (a) the Company’s intention to issue New Securities; (b) the amount and type of New Securities that the Company proposes to issue, and correspondingly, the number of Preemptive Right Shares that the Investor is entitled to purchase and (c) the material terms and conditions of the proposed issuance, including without limitation, the price of such New Securities (or (i) if such price is not clearly identifiable, such effective price per share as is reasonably determined by the Company in good faith or (ii) in the case of issuance of restricted stock, the fair market value of such restricted stock as determined by the Company in the ordinary course in connection with such issuance). Within seven (7) Business Days following the receipt of the Preemptive Right Notice, the Investor may, by delivery of a written notice of acceptance to the Company (the “**Acceptance Notice**”), elect to purchase all, or any portion, of the Preemptive Right Shares that the Investor is entitled to purchase for the price indicated in the Preemptive Right Notice. The failure to so respond in writing within such seven (7) Business Day period by the Investor shall constitute a waiver of its rights under this Section 6 with respect to the purchase of such New Securities, but shall not affect its rights with respect to any future issuances of New Securities. Upon the Company’s issuance of any Preemptive Right Shares, such Preemptive Right Shares shall be validly issued, fully paid and nonassessable, duly authorized by all necessary corporate action of the Company.

6.3 Registration Rights. If the Preemptive Right Shares are not issued to the Investor pursuant to an effective Registration Statement, and upon the Company’s issuance of any Preemptive Right Shares to the Investor, such Preemptive Right Shares have not been registered under an effective Registration Statement, then the Company shall, as soon as practicable, but in any event within 90 days of such issuance of such Preemptive Right Shares to the Investor, prepare and file with the SEC a Registration Statement covering the resale of such Preemptive Right Shares.

7. Miscellaneous.

7.1 Governing Law; Submission to Jurisdiction. The law, including the statutes of limitation, of the State of New York shall govern this Agreement, the interpretation and enforcement of its terms and any claim or cause of action (in law or equity), controversy or dispute arising out of or related to it or its negotiation, execution or performance, whether based on contract, tort, statutory or other law, in each case without giving effect to any conflicts-of-law or other principle requiring the application of the law of any other jurisdiction.

7.2 Dispute Resolution. The parties agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement or the transactions contemplated hereby (a “**Dispute**”) shall be arbitrated pursuant to the provisions of the Rules of Arbitration of the International Chamber of Commerce (the “**ICC Arbitration Rules**”), by three arbitrators (the “**Tribunal**”) appointed in accordance with the ICC Arbitration Rules (the “**Arbitration**”). The arbitration will be conducted in English, and shall take place in New York, New York or such other location as the parties and the Tribunal may agree. The arbitral award (the “**Award**”) shall (a) be rendered within 120 days after the Tribunal’s acceptance of its appointment; (b) be delivered in writing; (c) state the reasons for the Award; (d) be the sole and exclusive final and binding remedy with respect to the Dispute between and among the parties without the possibility of challenge or appeal, which are hereby waived; and (e) be accompanied by a form of judgment.

The Award shall be deemed an award of the United States, the relationship between the parties shall be deemed commercial in nature, and any Dispute arbitrated pursuant to this Section 7.2 shall be deemed commercial. The Tribunal shall have the authority to grant any equitable or legal remedies, including entering preliminary or permanent injunctive relief; provided, however, that the Tribunal shall not have the authority to award (and the parties waive the right to seek an award of) punitive or exemplary damages.

7.3 Waiver. No failure or delay of any party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. Any agreement on the part of any party to any such waiver shall be valid only if set forth in a written instrument executed and delivered by a duly authorized officer on behalf of such party.

7.4 Notices. All notices, instructions and other communications hereunder or in connection herewith shall be in writing, shall be sent to the address of the relevant party set forth on Exhibit B attached hereto and shall be deemed duly given (a) on the date of delivery if delivered personally, or if by facsimile or e-mail, upon written confirmation of receipt by facsimile, e-mail or otherwise, (b) on the first Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid. Any party may change its address by giving notice to the other parties in the manner provided above.

7.5 Entire Agreement. This Agreement, the Purchase Agreement (once executed), the Joint Venture Agreement, the Preferred Distributor Agreement and the Commercial Cooperation Agreement (including all exhibits hereto and thereto) constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous arrangements or understandings, whether written or oral, with respect hereto and thereto. Notwithstanding anything to the contrary contained herein or elsewhere, Section 7.16 of this Agreement shall supersede and replace in its entirety Section 13.9 of the Purchase Agreement.

7.6 Amendments. No provision in this Agreement shall be modified or amended except in a writing executed by an authorized representative of each of the parties the Company and the Investor.

7.7 Interpretation. When a reference is made in this Agreement to a section, subsection, article, exhibit or schedule such reference shall be to a section, subsection, article, exhibit or schedule of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement or in any exhibit or schedule are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Any capitalized terms used in any exhibit or schedule but not otherwise defined therein shall have the meaning as defined in this Agreement. All exhibits and schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth herein. The word “including” and words of similar import when used in this Agreement will mean “including, without

limitation,” unless otherwise specified. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision in this Agreement. The term “or” is not exclusive. The word “will” shall be construed to have the same meaning and effect as the word “shall.” References to days mean calendar days unless otherwise specified. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice-versa. This Agreement has been prepared jointly and will not be construed against either party.

7.8 Severability. If, under applicable Laws, any provision hereof is invalid or unenforceable, or otherwise directly or indirectly affects the validity of any other material provision(s) of this Agreement in any jurisdiction (“**Modified Clause**”), then, it is mutually agreed that this Agreement shall endure and that the Modified Clause shall be enforced in such jurisdiction to the maximum extent permitted under applicable Laws in such jurisdiction; provided that the parties shall consult and use all reasonable best efforts to agree upon, and hereby consent to, any valid and enforceable modification of this Agreement as may be necessary to avoid any unjust enrichment of either party and to match the intent of this Agreement as closely as possible, including the economic benefits and rights contemplated herein.

7.9 Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by the Investor or the Company without (a) the prior written consent of the Company in the case of any assignment by the Investor (other than to the SPV) or (b) the prior written consent of the Investor in the case of an assignment by the Company, in each case, which consent shall not be unreasonably withheld or delayed.

7.10 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of, and shall be binding upon, the respective successors and permitted assignees of the parties.

7.11 Counterparts. This Agreement may be executed in two or more counterparts, and by facsimile, pdf or other electronic format, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

7.12 Fees and Expenses. Except as otherwise provided herein and therein, all fees and expenses incurred in connection with or related to this Agreement and the other Transaction Agreements and the transactions contemplated hereby and thereby shall be paid by the party incurring such fees or expenses, whether or not such transactions are consummated.

7.13 Third Party Beneficiaries. None of the provisions of this Agreement shall be for the benefit of or enforceable by any Third Party, including any creditor of any party hereto. No Third Party shall obtain any right under any provision of this Agreement or shall by reason of any such provision make any claim in respect of any debt, liability or obligation (or otherwise) against any party hereto.

7.14 Remedies. The rights, powers and remedies of the parties under this Agreement are cumulative and not exclusive of any other right, power or remedy which such parties may have under any other agreement or Law. No single or partial assertion or exercise of any right, power or remedy of a party hereunder shall preclude any other or further assertion or exercise thereof.

7.15 Specific Performance. The parties hereby acknowledge and agree that the rights of the parties hereunder are special, unique and of extraordinary character, and that if any party refuses or otherwise fails to act in accordance with the provisions of this Agreement, such refusal or failure would result in irreparable injury to the Company or the Investor as the case may be, the exact amount of which would be difficult to ascertain or estimate and the remedies at law for which would not be reasonable or adequate compensation. Accordingly, if any party refuses or otherwise fails to act in accordance with the provisions of this Agreement, then, in addition to any other remedy which may be available to any damaged party at law or in equity, such damaged party will be entitled to obtain specific performance and injunctive relief, without posting bond or other security, and without the necessity of proving actual or threatened damages, which remedy such damaged party will be entitled to seek in any court of competent jurisdiction. Each party hereto hereby further waives any defense in any action for specific performance that a remedy at law would be adequate.

7.16 Confidentiality. The Investor shall, and shall cause its Representatives to, keep confidential any information (including oral, written and electronic information) concerning the Company, its subsidiaries or its Affiliates that may be furnished to the Investor or its Representatives by or on behalf of the Company or any of its Representatives pursuant to this Agreement (the “**Confidential Information**”) and to use the Confidential Information solely in connection with the Investor’s investment in the Company; provided that the Confidential Information will not include information that (a) is, was or becomes available to the public (other than as a result of a breach of any confidentiality obligation by the Investor), (b) is or has been independently developed or conceived by the Investor without use of the Confidential Information or (c) is or has been made known or disclosed to the Investor by a Third Party without a breach of any confidentiality obligations such Third Party has to the Company that is known to the Investor; provided further that, the Investor may disclose the Confidential Information (i) to its Representatives in connection with its investment in the Company, (ii) to any prospective purchaser of any shares of Common Stock from the Investor and their respective Representatives, provided that such prospective purchaser agrees to be bound by a confidentiality or non-disclosure agreement with the Investor that is no less restrictive than the confidentiality obligations set forth herein and within seven (7) days of providing any Confidential Information to any such prospective purchaser, the Investor provides notice to the Company identifying such prospective purchaser, (iii) to any Investor’s Affiliates and their respective Representatives, in each case in the ordinary course of business (provided that the recipients of such Confidential Information are subject to a confidentiality and non-disclosure obligation no less restrictive than the confidentiality obligations set forth herein), or (iv) as may otherwise be required by law or legal, judicial or regulatory process, provided that the Investor provides prompt prior written notice to the Company notifying the Company of the manner, scope and justification for such disclosure.

7.17 Further Assurances. Each party hereto shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as may be reasonably required or desirable in order to carry out the intent and accomplish the purposes of this Agreement.

7.18 Termination. Any of Investor's obligations set forth in this Agreement shall terminate once such Person no longer holds, directly or indirectly, any equity interest or voting power in the Company. This Agreement shall automatically terminate if the Second Closing does not occur on or prior to November 30, 2023. Section 7.16 shall survive the termination of this Agreement for two (2) years.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

BLOOM ENERGY CORPORATION

By: /s/ Gregory Cameron

Name: Gregory Cameron

Title: EVP, Chief Financial Officer

Signature Page to Investor Agreement

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

SK ECOPLANT CO., LTD.

By: /s/ Kyung-il Park
Name: Kyung-il Park
Title: Chief Executive Officer

Signature Page to Investor Agreement

EXHIBIT A

FORM OF IRREVOCABLE PROXY

[In order to secure the performance of the duties of the undersigned pursuant to Section 4.1 of the Investor Agreement, dated as of [], 2021 (the “*Agreement*”), by and between Bloom Energy Corporation (the “*Company*”) and [] (the “*Investor*”), the undersigned hereby irrevocably appoints [] and [], and each of them, the attorneys, agents and proxies, with full power of substitution in each of them, for the undersigned, and in the name, place and stead of the undersigned, to vote (or cause to be voted) or, if applicable, to give consent, in such manners as each such attorney, agent and proxy or his substitute shall in his sole discretion deem proper to record such vote (or consent) in the manners, and with respect to such matters as set forth in Section 4.1 of the Agreement (but in any case, in accordance with any written instruction from the undersigned, properly delivered under Section 4.1 of the Agreement, to vote or give consent as contemplated by Section 4.1 of the Agreement) with respect to all voting securities (whether taking the form of shares of Class A Common Stock, par value \$0.0001 per share, or other voting securities of the Company), which the undersigned is or may be entitled to vote at any meeting of the Company held after the date hereof, whether annual or special and whether or not an adjourned meeting or, if applicable, to give written consent with respect thereto. This proxy is coupled with an interest, shall be irrevocable and binding on any successor in interest of the undersigned and shall not be terminated by operation of law upon the occurrence of any event. This proxy shall operate to revoke and render void any prior proxy as to voting securities heretofore granted by the undersigned which is inconsistent herewith. Notwithstanding anything to the contrary contained herein, this proxy shall (i) at all times be subject to Section 4.3 of the Agreement and (ii) terminate upon the earlier of the expiration or termination of the Standstill Term (as defined in the Agreement) and the voting agreement set forth in Section 4.1 of the Agreement.]

[•]

By: _____

Name: _____

Title: _____

EXHIBIT B

NOTICE ADDRESSES

Company

Bloom Energy Corporation

Address: 4353 North First Street
San Jose, CA 95134

Attention: Shawn Soderberg, General Counsel

Telephone:

Email:

with a copy, with shall not constitute notice, to:

Latham & Watkins LLP

Address: 140 Scott Drive
Menlo Park, CA 94025

Attention: Tad Freese

Telephone:

Email:

Investor

SK ecoplant Co., Ltd.

Address: 19, Yulgok-ro 2-gil, Jongno-gu
Seoul 03143, Korea

Attention: Wang Jae Lee, Head of Hydrogen Business Center

Telephone:

Email:

with a copy, with shall not constitute notice, to:

Dechert LLP

Address: 31/F Jardine House
One Connaught Place
Central, Hong Kong

Attention: David K. Cho

Telephone:

Email: