APCo Exhibit No. ___
Witness: SLM

DIRECT TESTIMONY OF
SETH L. MILLER
FOR APPALACHIAN POWER COMPANY
IN VIRGINIA S.C.C. CASE NO. PUR-2025-00049

APCo Exhibit No. ___
Witness: SLM

SUMMARY OF DIRECT TESTIMONY OF

SETH L. MILLER

In my direct testimony, I

- Provide an overview of the 2024 RFPs and discuss the RFP evaluation process and the Company's due diligence that resulted in three Selected Renewable and BESS Projects;
- Discuss the selection of the Wythe BESS 52.2 MW and Livingston Wind 261 MW projects, including key terms and conditions of the PSAs;
- Describe challenges brought about by market uncertainties and outline contractual provisions to help mitigate these challenges;
- Describe ongoing operating and maintenance strategies for both Projects that will be acquired via PSAs;
- Provide an overview of HCE Collier Solar 7.5 MW PPA included in the Selected Renewable and BESS Projects; and
- Provide a summary of developer experience related to the Selected Renewable and BESS Projects.

APCo Exhibit No. ___
Witness: SLM

DIRECT TESTIMONY OF
SETH L. MILLER
FOR APPALACHIAN POWER COMPANY
IN VIRGINIA S.C.C. CASE NO. PUR-2025-00049

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Seth L. Miller. My business address is 1 Riverside Plaza, Columbus, Ohio 43215.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed as Director – Regulated Infrastructure Development by AEPSC, a wholly owned subsidiary of AEP. AEP is the parent company of APCo. AEPSC supplies engineering, financing, accounting, and similar planning and advisory services to AEP's regulated electric operating companies, including APCo.

Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE.

A. I earned a Bachelor of Science degree in Agriculture from The Ohio State University. I have 20 years of electric utility experience with AEP. I spent the first 5 years of my career with AEP working on several Environmental Compliance Construction Projects at several of the power generation facilities owned by AEP's operating companies. During my career in Generation, I held a variety of positions, including Construction Coordinator, Project Manager, Senior Project Manager, and Manager. Many of the projects managed included environmental compliance and retrofit projects, renewable projects, heavy civil projects, landfill expansions, and coal mine improvement and expansion. I was promoted to my current position in 2020.

Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?

A. As Director - Regulated Infrastructure Development, I manage RFPs for PSAs and PPAs on behalf of the AEP Operating Companies. My responsibilities include: (1) drafting the RFPs with input from the operating companies; (2) managing the RFP process, which involves processing proposals, and performing due diligence by leading and consulting various subject matter experts within the relevant operating companies and AEPSC; and (3) negotiations of the associated agreements.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to provide supporting details regarding APCo's requests in this 2025 VCEA Proceeding related to (1) the fully executed Wythe BESS Facility PSA, (2) the fully executed Livingston Wind Facility PSA, and 3) the purchase of the Renewable Energy Products from the HCE Collier Solar facility via a long-term PPA.

Specifically, my testimony will:

- Provide an overview of the 2024 RFPs (PSA, PPA, and REC) and discuss the RFP evaluation process and the Company's due diligence that resulted in the Selected Renewable and BESS Projects;
- Discuss the selection of the Wythe BESS 52.2 MW and Livingston Wind 262 MW PSAs, including key terms and conditions of the PSAs, the total installed capital costs, projected ongoing operating and capital costs, and developer experience;
- Provide an overview of the HCE Collier Solar 7.5 MW PPAs; and
- Provide details and commercial measures taken by the company during the Wythe and Livingston PSAs to further mitigate future price uncertainty.

Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS PROCEEDING?

A. Yes. I am sponsoring the following exhibits:

- APCo Exhibit No. __(SLM) Schedule 1 - 2024 APCo Selected Renewable Resources Map
- APCo Exhibit No. __(SLM) Schedule 2 - 2024 APCo Wind and Solar PSA RFP
- APCo Exhibit No. __(SLM) Schedule 3 - 2024 APCo Wind and Solar PPA RFP
- APCo Exhibit No. __ (SLM) Schedule 4 - 2024 APCo REC RFP
- APCo EXTRAORDINARILY SENSITIVE Exhibit No.__ (SLM) Schedule 5 - Purchase and Sale Agreement (Wythe)
- APCo EXTRAORDINARILY SENSITIVE Exhibit No.__ (SLM) Schedule 6 - Purchase and Sale Agreement (Livingston)
- APCo EXTRAORDINARILY SENSITIVE Exhibit No. __(SLM) Schedule 7 - Power Purchase Agreement (Collier Solar)

III. THE SELECTED RENEWABLE RESOURCES

Q. WHY DID APCO PURSUE RENEWABLE RESOURCES THROUGH *MULTIPLE COMPETITIVE RFP PROCESSES?*

A. The VCEA requires the Company to issue annual RFPs for new solar resources, wind resources, and battery energy storage systems, or BESS. Additionally, the Company identified renewable resources as a need in Virginia in its 2023 RPS Plan. Accordingly, the Company issued several competitive RFPs to determine if economical renewable resources and RECs were available to satisfy these requirements and take advantage of Federal tax credits.

Q. PLEASE PROVIDE AN OVERVIEW OF THE SELECTED PROJECTS FROM THE COMPANY'S COLLECTIVE 2024 RFPS.

A. Table 2 below summarizes the Selected Renewable and BESS Projects that APCo has included in this filing. See Exhibit No. __ (SLM) Schedule 1 – 2024 APCo Selected Renewable Resources Map.

Table 1: 2024 APCo Selected Purchase & Sale (PSA) Projects

Facility	Developer	Resource	Size	Location	Target COD[1]
Wythe BESS	RWE Clean Energy	BESS	52.2 MW	VA	06/15/2027
Livingston Wind	EDF *Renewables*	Wind	261 MW	IL	03/30/2029

Table 2: 2024 APCo Selected PPA Project

Facility	Developer	Resource	Size	Location	Target COD[1]
HCE Collier Solar	Holocene	Solar	7.5 MW	VA	06/30/2027

Note 1: Anticipated or Projected COD.

Q. WHAT IS THE BENEFIT TO PURSUING THESE FACILITIES NOW?

A. The portfolio of the Selected Renewable and BESS Projects is an economic choice to meet APCo's prescribed renewable requirements of the VCEA as explained by Company witness Stevens. There are significant federal tax benefits available from pursuing the Selected Renewable and BESS Projects, which serve to reduce the cost to customers for energy and capacity from the facilities. Under the Inflation Reduction Act, the Selected Renewable and BESS Projects are expected to be eligible for the federal ITC at 40% (30% + 10% bonus location in an Energy Community) for both Wythe BESS and Livingston Wind PSAs.

Q. PLEASE PROVIDE AN OVERVIEW OF THE CURRENT MARKET UNCERTAINTIES IN THE DEVELOPMENT OF RENEWABLE GENERATION AND BESS RESOURCES.

A. During the Company's negotiation period with the developers of the Selected Renewable and BESS Projects, the energy industry, as a whole, continued to experience numerous development challenges due to current raw material, supply chain, equipment availability and cost uncertainty. Among these challenges:

SUPPLY ISSUES: The global rise in demand for the equipment to construct infrastructure projects in general, and the components of renewable facilities in particular has exacerbated supply issues. Some major components, such as high voltage breakers and main power transformers can have lead times of 180 weeks or more. In addition, developers are also experiencing issues with labor availability for building renewable facilities.

TARIFFS AND DUTIES: The uncertainty of recently announced U.S. tariffs and duties has posed a challenge to developers in providing a fixed price for renewable generation resources. Tariff and duty related cost pressures include but are not limited to: (1) raw materials being steel, aluminum, and copper tariffs, (2) reciprocal tariffs impacting any foreign made goods such as turbine components, solar cells, and modules, and (3) antidumping and countervailing duties, all imposed by the United States government.

LOCAL PERMITTING: There have been growing pains and learning curves associated with project siting in certain localities as new ordinances regarding land use

and taxation have been implemented along with the rapid expansion of renewables and BESS projects across the U.S.

Q. HAVE THESE MARKET CHALLENGES AFFECTED THE SELECTED RENEWABLE RESOURCES PRESENTED IN THIS PROCEEDING?

A. Yes. These market challenges have caused prolonged negotiations with developers, as evolving potential risks are evaluated, and have required increased flexibility in contract terms to balance the risk and uncertainty between the developer, the Company, and ultimately customers.

Q. WHAT MITIGATION STEPS DID THE COMPANY INCOPORATE INTO NEGOTIATED COMMERCIAL TERMS FOR THE PSAs ADDRESSING MARKET UNCERTAINTY?

A. The Company successfully negotiated cost sharing mechanisms in both the Wythe BESS and Livingston Wind PSAs. These cost sharing mechanisms provide for risk and/or benefit sharing between the developer and APCo prior to the respective project's start of construction. The contract allowances are subject to negotiated caps prior to notice to proceed, which, if exceeded, provides the parties the option to terminate the agreement if a mutually agreed arrangement cannot be negotiated. The Company will mitigate the risk for cost increases, subject to caps, through its rights to a rigorous review process, and, if validated, has included contract allowances for such increases in the Company's contingency budget.

IV. APCO'S RFPS AND THE RFP PROCESS

Q. PLEASE PROVIDE AN OVERVIEW OF THE COMPETITIVE RFPS ISSUED BY THE COMPANY IN 2024.

A. The Company issued three separate competitive RFPs (see APCo Exhibit No. __ (SLM) Schedules 2 through 4) for PSAs, PPAs, and RECs simultaneously on May 13, 2024, which resulted in the Selected Renewable and BESS Projects presented in this petition.

Q. PLEASE DESCRIBE THE GENERAL STEPS IN THE COMPANY'S ISSUANCE OF RFPS.

A. All the RFPs included in the Company's filing followed seven main steps:

Step 1: Issuance of RFP
Step 2: Receipt and Review of Proposals
Step 3: Screening of Eligibility & Threshold Requirements
Step 4: Economic Screening Analysis
Step 5: Due Diligence
Step 6: Short-List and Identification of Selected Renewable Resources
Step 7: Final Project Selection, Negotiations & Execution of Agreements

In general, the structure of all the RFPs is similar, as described in this section of my testimony.

Q. PLEASE DESCRIBE THE INITIAL RFP STEPS.

A. The Regulated Infrastructure Development team worked in coordination with the Company to develop the RFPs. The Company issued its RFPs by posting each RFP to its website (www.appalachianpower.com/rfp), issuing a news release to various publications, and notifying prospective bidders via email. In addition, as part of the RFPs, the Company provided an opportunity for bidders to submit questions to the

Company and the Company posted responses to general questions to its website. Upon receipt of proposals, the Company reviewed the proposals for completeness and then contacted the bidder if there were any deficiencies, giving them an opportunity to provide the necessary information for the Company to further evaluate their proposal.

Q. PLEASE DESCRIBE THE ELIGIBILITY AND THRESHOLD REQUIREMENTS OF THE RFP PROCESS.

A. After review of proposals for completeness as described above, each proposal had to meet all the Eligibility and Threshold Requirements prior to being considered further in the RFP. The Eligibility and Threshold Requirements included criteria such as meeting the RFP's target COD, minimum project size, location of proposed resources, federal tax credit qualification, interconnection status, and design life. The Eligibility and Threshold requirements for the PSA, PPA, and REC RFPs are contained in each individual RFP (APCo Exhibit No. __ (SLM) Schedules 2 through 4).

Q. PLEASE DESCRIBE THE ECONOMIC SCREENING FOR THE RFP PROCESS.

A. During the Company's economic analysis phase, AEPSC's IRP team calculated the Levelized Adjusted Net Cost of Energy (LANCOE), and Levelized Adjusted Net Cost of Capacity (LANCOC) and Value to Cost Ratio (V/C) for each of the proposals that met the Eligibility and Threshold Requirements described above. For each proposal, the bid price and expected annual energy (MWh) of both the intermittent renewables and the BESS proposals was provided to the Resource Planning team by the Regulated Infrastructure Development team, while the Transmission Planning team also provided inputs associated with the impact of transmission congestion and line losses to the

Resource Planning team. In addition to these inputs, for PSA proposals, the Generation team provided O&M and ongoing capital costs to the Resource Planning team who then coordinated with other departments on operating company specific modeling variables (e.g. applicable federal tax credits, financing assumptions, etc.). The Company identified the RFP Short-List, which included several bidders for further discussions and contract negotiations. For both the PSA and PPA analysis, the analysis also took into consideration non-price factors such as terms of each proposal, environmental and environmental justice impacts, bidder financial wherewithal and experience, and development status. Environmental justice considerations are discussed in more detail by Company witness Long.

Q. PLEASE DESCRIBE THE DUE DILIGENCE STEP OF THE RFP PROCESS.

A. The Company completed a due diligence review on the PPA and PSA proposals. For PPA proposals, the due diligence included an internal review of the expected annual energy, environmental studies, technology used, interconnection status, transmission congestion, and the bidder's experience in operating generation facilities. Additional steps were taken for PSA proposals. For PSA proposals, the Company also performed detailed due diligence on technology, overall project design, land leases, transmission and interconnection, steps taken to qualify for federal tax credits, greater due diligence on environmental/wildlife impact assessment, and local community impacts. In addition, the Company engaged third party consultants to independently study energy resource assessments (expected annual energy) and made in-person site visits to both PSA project sites.

Q. PLEASE DESCRIBE THE FINAL PROJECT SELECTION AND NEGOTIATION OF THE AGREEMENTS.

A. For the final project selection, the Company used the Short-List as its basis and considered bids that were deemed reliable, feasible and represented a reasonable cost means of satisfying the requirements of each RFP. Bidders in the Short-List selection were then engaged in detailed due diligence and negotiations towards a final executable agreement. I discuss the executed agreements for the Selected Renewable and BESS Projects later in my testimony.

V. OWNED RENEWABLE FACILITIES (PSA) RFP

Q. PLEASE PROVIDE AN OVERVIEW AND RESULTS OF THE 2024 APCO WIND, SOLAR AND BESS PSA RFP.

A. The Company issued a competitive RFP on May 13, 2024, for the purchase of 100% of the equity interests in project companies via one or more PSAs for up to 800 MW of Solar, Solar + BESS, Standalone BESS, and Wind Energy resources that can achieve a COD by December 15, 2028. Please see APCo Exhibit No. __ (SLM) Schedule 2. Changes in the 2024 PSA RFP from past PSA RFPs include: (1) the request for stand-alone battery energy storage systems and (2) procurement at the development stage or at project completion. The Company received sixteen conforming solar bids representing 987.45 MW, one conforming wind bid representing 255 MW and five conforming BESS bids for 222.2 MW. After evaluation, which included conducting a non-price and economic screening analysis and performing a due diligence review, two projects were selected from this RFP, as shown in Table 1. A third BESS PSA

proposal was also initially shortlisted, but withdrew from negotiations due to permitting issues.

Q. DESCRIBE THE CONTRACT NEGOTIATION ACTIVITIES WITH THE PSA DEVELOPERS.

A. Once the Wythe BESS and Livingston Wind proposals were identified, the Company continued with due diligence activities and initiated formal contract negotiations with RWE Solar Development, LLC (RWE) and EDF. The Company then went through an iterative process of contract negotiations and further due diligence with RWE and EDF and was successful in negotiating the executable PSAs for Wythe and Livingston, which is provided in APCo EXTRAORDINARILY SENSITIVE Exhibit No. __ (SLM) Schedules 5 and 6.

Q. PLEASE PROVIDE AN OVERVIEW OF THE PSA STRUCTURE FOR WYTHE BESS AND LIVINGSTON WIND.

A. The PSA governs the construction of Wythe BESS facility by RWE (Seller), and Livingston Wind by EDF (Seller) and the Company's purchase of 100% of the equity interest of the project holding company that owns the rights and assets associated with each respective facility. The Company will purchase the project company from both Wythe and Livingston projects at Mechanical Completion (prior to being placed in service and just prior to energization) in order to be eligible for the ITCs.

Q. PLEASE DESCRIBE THE GENERAL TERMS OF THE PSA.

A. The PSA includes:

General Terms, such as covenants (e.g., development, construction timing, and pre-closing activities), representations and warranties, indemnifications, termination rights

and conditions precedent (including regulatory approval) that are typical in such transactions;

Payment Terms, which includes details regarding the purchase of the equity interests, pricing, timing of payment by the Company and the associated conditions precedent for such payment;

Cost Adjustment Provisions to manage potential risks associated with market challenges previously discussed; and

Other Provisions regarding project supplier warranties and the required credit support for same.

Q. ARE THERE REGULATORY APPROVAL REQUIREMENTS IN THE PSA?

A. Yes. The effectiveness of the PSA is conditioned upon acceptable and timely regulatory approvals from the Commission and the Federal Energy Regulatory Commission, where applicable. The Company will present the Wythe and Livingston PSAs, along with the Collier Solar PPA referenced in my testimony, to both the Commission and the WVPSC.

Q. WHAT ROLE WILL THE DEVELOPER (EDF) HAVE IN THE DEVELOPMENT AND CONSTRUCTION OF THE LIVINGSTON WIND FACILITY?

A. EDF will be responsible for the development, environmental studies, permitting, engineering, and procurement of all necessary equipment and materials, construction and commissioning of the renewable energy facility. EDF will procure all equipment including, as applicable, the wind turbine generators, high and medium voltage breakers, generation step up transformers, and cabling. In addition, EDF will be

responsible for securing the construction contracts necessary to design and build the facility as defined in the PSA. A list of Company approved suppliers is included in the PSA.

Q. WHAT ROLE WILL THE DEVELOPER (RWE) HAVE IN THE DEVELOPMENT AND CONSTRUCTION OF THE WYTHE BESS FACILITY?

A. RWE will be responsible for the development, environmental studies, permitting, engineering, and procurement of all necessary equipment and materials, construction and commissioning of the renewable energy facility. RWE will procure all equipment including, as applicable, BESS containers (DC block and BESS management system), pad mount transformers, generation step up transformers, cabling, and medium voltage breakers. In addition, RWE will be responsible for securing the construction contracts necessary for the facility as defined in the PSA.

Q. HOW DOES APCO PLAN TO MONITOR THE PROGRESS OF CONSTRUCTION OF WYTHE AND LIVINGSTON PSAs?

A. Through AEPSC, and in accordance with the PSA's negotiated scope of work, APCo will have experienced personnel for on-site monitoring of the construction progress. Upon delivery, APCo will have an opportunity to review and: (1) identify any open issues or deficiencies for resolution or (2) accept the Milestone Completion Certificate and the work underlying the completion. In this regard, the Company will be monitoring the entire construction of the facility to ensure that the Developers adhere to the scope of work and project schedule under the PSA. See direct testimony from Company witness Grisales.

Q. PLEASE DESCRIBE THE EXPERIENCE OF THE BESS FACILITY DEVELOPER (RWE)

A. RWE is a subsidiary of RWE Clean Energy, LLC (RWECE), with the ultimate parent company RWE Aktiengesellschaft (RWE AG). RWECE has approximately 2,000 employees and operates onshore wind farms, photovoltaic solar plants, and battery storage facilities. RWECE has ambitious growth plans and is planning to add a gross capacity of 10 GW of renewable energy and battery storage capacity by 2029, bringing its current portfolio from 10 GW to 20 GW globally.

Q. PLEASE DESCRIBE THE EXPERIENCE OF THE WIND RENEWABLE ENERGY FACILITY DEVELOPER.

A. EDF Renewables North America has developed, contracted or constructed 12 GW utility scale wind projects throughout North America. EDF Renewables has been in the wind business for over 35 years. EDF has developed over 23 GW of total renewables, which includes 12 GW of utility scale wind projects throughout North America. EDF owns 7.8 GW of its own renewable resources and has contracted 16.2 GW of O&M services, and currently has 43 GW of renewables in the pipeline.

VI. <u>APCO PPA & REC RFPs</u>

Q. PLEASE PROVIDE AN OVERVIEW AND RESULTS OF THE 2024 APCO SOLAR AND WIND PPA RFP.

A. <u>2024 APCo solar and wind PPA RFP</u>

The Company issued this RFP for up to 300 MW of solar and/or wind energy resources that can achieve a COD of no later than December 31, 2028, via one or more long-term (20 or 30-year) PPAs for a delivery period commencing on January 1, 2029. On the

PPA Proposal Due Date, the Company received 43 PPA bids representing 28 unique projects and totaling over 2,160 MW. There were eleven shortlisted solar projects, from four different developers, totaling approximately 119 MW, that the Company engaged in PPA negotiations. Ten of the eleven shortlisted projects withdrew from negotiations for various reasons including a strategic decision to sell the projects vs. entering into a PPA, market uncertainty, tariff risk, and uncertainty with the federal ITC tax credits. Out of the eleven shortlisted PPA projects, HCE Collier Solar, a 7.5 MW solar facility, resulted in an executed PPA.

Q. PLEASE PROVIDE AN OVERVIEW OF THE PPA RESULTING FROM THE RFP.

A. Under the PPA, APCo will purchase 7.5 MW of a bundled product (energy, capacity, and RECs) produced from the 7.5 MW HCE Collier Solar facility. The PPA will continue for a twenty-eight-year term upon commercial operation, which is expected to be May 31, 2027. The HCE Collier Solar facility will be located on the Company's distribution system in Wise County, VA.

The PPA requires the Sellers to design, develop, construct, own or lease, and operate the renewable electric generating facilities. APCo will purchase the Renewable Energy Products generated by the facility, which includes the energy, capacity, and environmental attributes, including the RECs.

Q. PLEASE DESCRIBE THE EXPERIENCE OF THE DEVELOPERS OF THE PPA (HOLOCENE).

A. Holocene Finance, LLC (Holocene) is a solar energy developer established in 2008 and based in Raleigh, NC. Holocene is the parent company of HCE Collier Solar, LLC.

Holocene has experience with both deregulated and regulated markets. Holocene has developed, constructed, owned, and operated at least twenty-one solar projects totaling 132 MW with delivery to various utilities located primarily on the East Coast. Fifteen of these solar projects are in twelve different Virginia localities ranging in size from 5 MW to 36 MW.

Q. **PLEASE PROVIDE AN OVERVIEW AND RESULTS OF THE 2024 APCO REC RFP.**

A. The Company issued a competitive RFP (see APCo Exhibit No. __ (SLM) Schedule 4) on May 13, 2024 for the purchase of RECs from eligible resources meeting Section 56-585.5.C of the Va. Code located in the PJM region via either spot purchases or long-term REC agreements. The design of this 2024 RFP further expanded the eligibility criteria over prior RFPs. Despite the revised RFP structure, the Company received zero bids from this RFP. Please see the testimony of Company witness Stevens for more discussion regarding RECs.

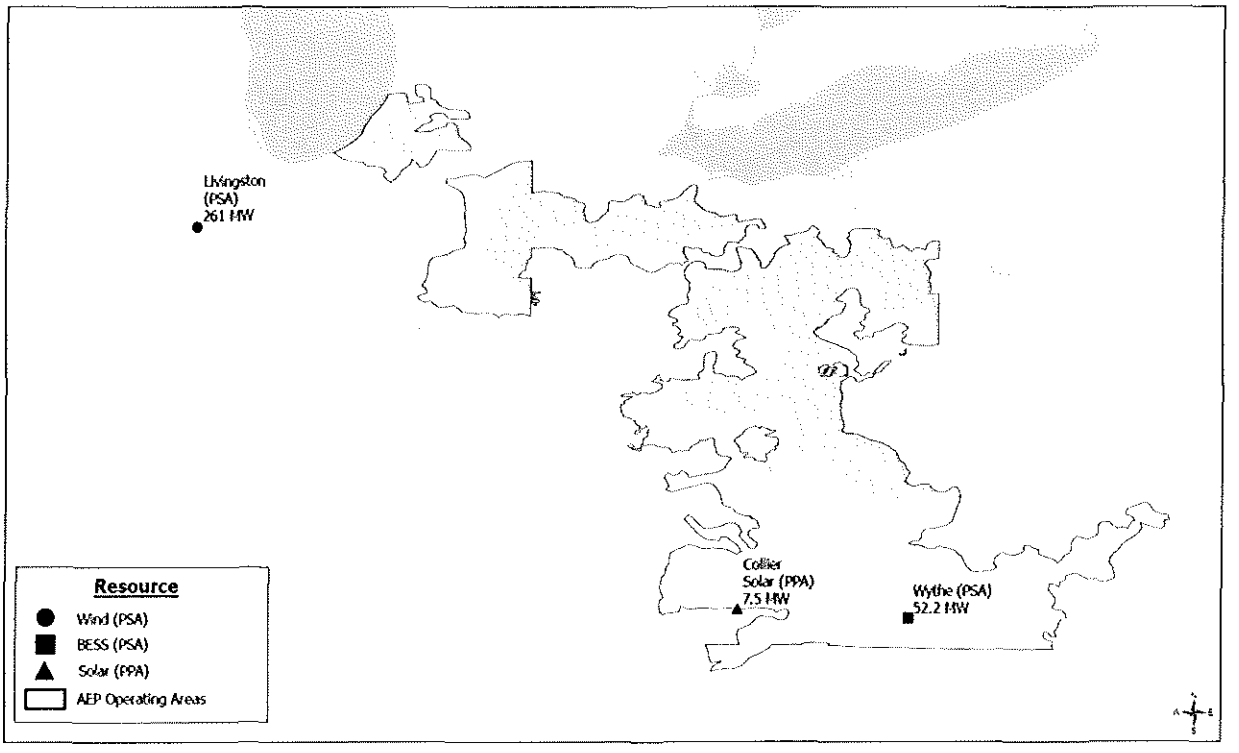
Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

APCO Exhibit No.___
Witness: SLM
Schedule 1
1 of 1

Miller Direct Testimony- Schedule 1

APCo Reg Filing Map



American Electric Power Service Corporation
as agent for
Appalachian Power Company

Request for Proposals
Purchase and Sale Agreements (PSAs)

from Qualified Bidders

Totaling up to 800 MW_{ac} of nameplate rated

Wind Energy Resources, Solar Energy Resources with
Optional Battery Energy Storage Systems, and/or
Standalone Battery Energy Storage Systems

RFP Issued: May 13, 2024

Proposals Due: July 30, 2024

Web Address: https://www.appalachianpower.com/rfp

APPALACHIAN POWER
An AEP Company

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1. Background

1.1. Appalachian Power Company (APCo, Appalachian Power, or Company) is pursuing additional renewable resources via three Requests for Proposals (RFPs), as described in Table 1 below.

TABLE 1

RFP	Solicitation Details
PSA	**Wind, solar and/or co-located or standalone battery energy storage systems RFP for up to 800 MW via one or more purchase and sale agreements (PSAs) for purchase of 100% equity interest in a project company.**
PPA	Wind and solar RFP for up to 300 MW of energy, capacity, and environmental attributes (including renewable energy certificates) via one or more power purchase agreements (PPA) will be issued simultaneously.
REC	RFP for renewable energy certificates (RECs) that qualify under Virginia's RPS will be issued simultaneously.

This RFP is associated with the PSA RFP only.

1.2. APCo has issued this RFP to support its requirement to provide its customers with carbon-free generation, consistent with the requirements of the Virginia Clean Economy Act (VCEA) for a Phase I utility. APCo is required to meet annual targets that reach 100% by 2050. APCo intends to meet its obligations through a portfolio of projects utilizing different ownership models. This RFP is for facilities meeting the definition of renewable energy contained in Section 56-585.5.A of the Virginia Code that are to be acquired by the utility.

1.3. APCo has also issued this RFP to solicit proposals in support of West Virginia Senate Bill 583[1]. Senate Bill 583 has created a program to further the development of renewable energy resources and renewable energy facilities for solar energy and energy-storage resources. The program, in part, provides *"an application process and program for multiyear comprehensive renewable energy facilities for electric utilities, as defined, to plan, design, construct, purchase, own, and operate renewable energy generating facilities, energy-storage resources, or both under special conditions, requirements, and limitations."* Solar facilities or energy-storage resources may become part of certain customer programs in West Virginia-domiciled solar generation.

2. Introduction

2.1. American Electric Power Service Corporation (AEPSC) and Appalachian Power Company are subsidiaries of American Electric Power Company, Inc. (AEP). AEPSC

[1] https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=SB583 SUB1 ENR.htm&yr=2020&sesstype=RS&billtype=B&houseorig=S&i=583

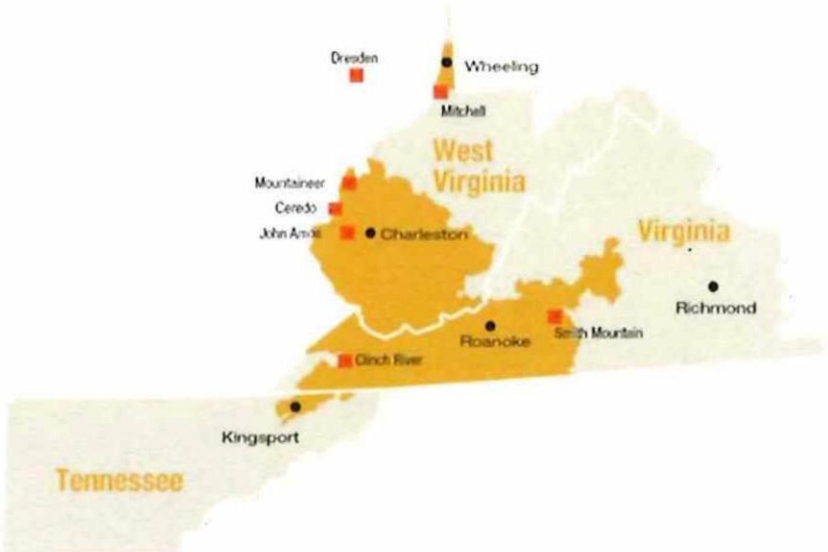
is administering this RFP on behalf of APCo. Affiliates of AEP and APCo (Affiliate) are not permitted to participate in this RFP.

Appalachian Power serves about 1 million customers in West Virginia, Virginia and Tennessee. APCo's headquarters is in Charleston, W.Va., with additional regulatory and external affairs offices in Roanoke and Richmond, Va.

Based in Columbus, Ohio, AEP is powering a cleaner, brighter energy future for its customers and communities. The company's nearly 17,000 employees operate and maintain more than 40,000 miles of transmission lines, the nation's largest electric transmission system, and more than 225,000 miles of distribution lines to deliver power to 5.6 million customers in 11 states. AEP also is one of the nation's largest electricity producers with approximately 29,000 megawatts of diverse generating capacity, including nearly 6,000 megawatts of renewable energy. The company is investing $43 billion over the next five years to make the electric grid cleaner and more reliable. AEP is on track to reach an 80% reduction in carbon dioxide emissions from 2005 levels by 2030 and have a goal to achieve net zero by 2045.

AEP is recognized consistently for its focus on sustainability, community engagement, and diversity, equity and inclusion. AEP's family of companies includes utilities AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public Service Company of Oklahoma, and Southwestern Electric Power Company (in Arkansas, Louisiana, east Texas and the Texas Panhandle). AEP also owns AEP Energy, which provides innovative competitive energy solutions nationwide. For more information, visit aep.com.

APCo Service Territory



3. RFP Overview

3.1. APCo is requesting Proposals that will result in obtaining up to 800 MWac of nameplate rated Wind Energy Resources (Wind Project, Project), Solar Energy Resources (Solar Project, Project), and/or Standalone Battery Energy Storage Systems (BESS). Depending on the results of the RFP, APCo may pursue additional resources beyond 800 MWac.

3.2. A Proposal for a Wind Energy Resource, Solar Energy Resource, or Standalone BESS only (Base Proposal) is required by Bidders to participate in this RFP. Bidders may include an Alternate Proposal for a Solar Energy Resource with a co-located battery energy storage system option which is at least 20% of the nameplate rating of the Solar Energy Resource (Storage Option).

3.3. The minimum acceptable nameplate rated Project size for this RFP is as follows:

3.3.1. PJM Resources: 50 MWac minimum for Wind, Solar, and Solar Energy Resources with co-located battery energy storage systems. 10 MWac minimum for Standalone BESS.

3.3.2. APCo Distribution Resources: 10 MWac minimum for Solar, Solar Energy Resources with co-located battery energy storage systems, and Standalone BESS.

3.4. APCo is seeking Projects that are 1) in the Development Stage and located in Virginia or West Virginia (see Section 3.7.1) and 2) Completed Projects (see Section 3.7.2) that have an expected Commercial Operation Date (COD) by 12/15/28.

3.5. APCo is seeking Projects that are physically located in the PJM Interconnection, LLC Region (e.g., interconnected to the PJM Transmission system) and/or Solar Projects and Standalone BESS Projects that interconnect to APCo's distribution electrical system. APCo has a preference for projects located in the Commonwealth of Virginia or the State of West Virginia on Eligible Sites; however, this is not an Eligibility and Threshold Requirement (Section 9.1) for participation in the RFP.

Eligible Site means any site in the state of West Virginia that has been previously used in electric generation, industrial, manufacturing or mining operations, including, but not limited to, brownfields, closed landfills, hazardous waste sites, former industrial sites, and former mining sites.

3.6. APCo is requesting Proposals for both new and operational projects. Any Proposals submitted for operational projects must demonstrate that the underlying asset has a minimum of 10 years of operational life remaining based on initial design standards. Bidders of operational projects must have 100% ownership of the asset or have documented authority to offer the asset into the RFP.

3.7. The Resources requested via this RFP will be acquired via Purchase and Sale Agreements (PSA), subject to regulatory approval, for purchase of 100% of the equity interest of the Project's limited liability company (Project LLC) as follows:

3.7.1. Development Stage Project(s) (VA and WV-sited only): Purchase of the Project LLC at Closing shall include, but not be limited to, the following requirements:

3.7.1.1. 100% Site Control (including easements), with all land title defects cured.

For participation in the RFP, the Bidder must have substantial site control (Section 4.6.1); however, 100% Site Control and land title defects cured is required at Closing.

3.7.1.2. Executed PJM Generation Interconnection and Construction Services Agreement; or executed APCo Distribution Interconnection Agreement.

For participation in the RFP, the Bidder must have a completed PJM System Impact Study (Section 4.7.1) which remains active in the PJM queue, or 2) submitted an application for the Distribution Impact Study no later than April 1, 2024, and receive a completed APCo Distribution Impact Study prior to the Proposal Due Date (Section 4.7.2).

3.7.1.3. Completed Land, Conditional, or Special Use Permit.

3.7.1.4. Completed Preliminary Engineering (10%), including:

- Equipment layout with recommended equipment,
- Ground coverage ratio,
- DC/AC ratio,
- KMZ/KML of the project boundaries,
- General site assumptions including typical avoided features,
- Preliminary geotechnical study,
- Preliminary layouts in PDF and CAD, and
- T&D interconnection and substation preliminary layouts.

3.7.1.5. Completed Permitting (see Appendix O) and required federal, state, local, and other filings as necessary.

3.7.1.6. Completed Phase I Environmental Site Assessment Report.

3.7.2. Completed Project(s): Completed Wind and Solar Projects will be purchased at Substantial Completion. Standalone BESS projects will be purchased at Mechanical Completion.

3.7.2.1. Mechanical Completion is defined as the Project being mechanically completed, assembled, erected and installed in accordance with the terms and conditions of the PSA.

3.7.2.2. Substantial Completion is achieved once all of the following has been completed: (i) Mechanical Completion has been achieved, (ii) the Project has been interconnected to the PJM or APCo distribution electrical system (APCo System), and (iii) all startup, commissioning, and satisfaction of all testing as required by all major contracts and interconnection agreements. Punch list related items are not a requirement to achieve Substantial Completion; however, are required to achieve Final Completion.

3.8. APCo is seeking projects that will qualify for the full (100%) Federal Production Tax Credit (PTC) or the full (30%) Federal Investment Tax Credit (ITC) (collectively, Federal Tax Credits). While qualifying for these Federal Tax Credits is not an Eligibility and Threshold Requirement (Section 9.1) for participating in the RFP, the value brought to the Proposals in buying down the cost of energy by utilization of these tax credits is significant, and is included in the Company's Economic Analysis (Section 9.2.1) and ranking of each of the respective Proposals.

3.9. Affiliates of AEP and APCo (Affiliate) will not participate in this RFP.

3.10. APCo may execute one or more PSAs as a result of this RFP.

3.11. Any Project(s) with which APCo moves forward as a result of this RFP will be subject to APCo's receipt of the necessary regulatory approvals. If the Project is domiciled in Virginia, APCo can seek a prudency determination at the Virginia State Corporation Commission (VA SCC) and will subsequently seek a certificate to own and operate the facility from the VA SCC and, depending on the project, from the West Virginia Public Service Commission (WV PSC). For both Virginia domiciled and non-domiciled Projects, APCo will seek approval of cost recovery from the VA SCC and the WV PSC. If the WV PSC denies cost recovery or, as applicable, approval of the certificate to own and operate a facility, all of the associated costs and benefits will be allocated to APCo's Virginia customers. Thus, approvals from the VA SCC are necessary for APCo's acquisition of any Project(s), and the WV PSC's decision will determine how APCo recovers the costs related to the Project(s) from its customers.

3.12. All questions regarding this RFP should be emailed to: *APCo2024RFP@aep.com*

APCo will post a list of the non-confidential "Questions and Answers" on its RFP website https://www.appalachianpower.com/rfp on a weekly basis following the issuance of the RFP until the Proposal Due Date.

3.13. This RFP is not a commitment by the Company to acquire any Project and it does not bind the Company or its Affiliates in any manner. The Company in its sole discretion will determine which Bidders, if any, it wishes to engage in negotiations with that may lead to definitive agreements for the acquisition of one or more selected Projects.

4. **Product Description and Requirements**

4.1. Project Types: APCo is soliciting Proposals for Development Stage Projects and Completed Projects. The following provides a description of these Projects at Closing (purchase of the Project LLC).

4.1.1. Development Stage Project: Each Project must be located in Virginia or West Virginia, have 100% Site Control (including easements), land title defects cured, and executed APCo or PJM Generation Interconnection and Construction Services Agreements, as applicable. In addition, each Project must have completed Preliminary Engineering (10%), Permitting Plan (See Appendix O), and a Phase I Environmental Site Assessment Report.

4.1.2. Completed Project: Each Project must be a complete, commercially operable, integrated wind or solar powered electric generating plant or Standalone BESS, including all facilities that are necessary to generate and deliver energy into PJM (PJM Interconnection L.L.C.) or the APCo System by the Expected Commercial Operation Date.

4.2. Expected COD: The Company is pursuing Projects that can achieve an Expected COD by 12/15/2028.

4.3. Size: The RFP is seeking up to 800 MWac of nameplate rated Wind, Solar, Solar Energy Resource with a co-located battery energy storage system option, or Standalone BESS resource. The minimum acceptable nameplate rated Project size for this RFP is as follows:

4.3.1. PJM Resources: 50 MWac minimum for Wind, Solar, and Solar Energy Resources with co-located battery energy storage systems. 10 MWac minimum for Standalone BESS.

4.3.2. APCo Distribution Resources: 10 MWac minimum for Solar, Solar Energy Resources with co-located battery energy storage systems, and Standalone BESS.

4.4. Location: Projects must be physically located in the PJM Interconnection L.L.C. Region (e.g., interconnect to the PJM Transmission system) or the APCo System. The Company prefers projects located in the Commonwealth of Virginia or the state of West Virginia on Eligible Sites (Section 3.5). Development Stage Projects must be located in Virginia or West Virginia (Section 3.4).

4.5. Local Goods & Services: APCo encourages the use of local goods or services sourced, in whole or in part, from one or more Virginia or West Virginia businesses in the construction and/or operation of the Project or United States-based manufacturers using materials or product components made in Virginia, West Virginia or the United States.

4.6. Project Development:

4.6.1. Bidder must have established substantial site control of the proposed Project for participation in this RFP. Site control must be in the form of direct ownership, land lease, land lease option or easement for at least a 35-year period for Wind and Solar Projects, and at least a 25-year period for Standalone BESS. A letter of intent will not be an acceptable form of demonstrated site control.

4.6.2. Each Completed Project must satisfy the applicable AEP Generation Facility Standard (Appendix F), including the following requirements, as applicable:

4.6.2.1. Solar panels, inverters, trackers, storage equipment, and main power transformers (if included), must be manufactured by those approved vendors in the applicable AEP Generation Facility Standard (Appendix F).

4.6.2.2. Wind Project turbines must be manufactured by GE, Vestas, or Siemens-Gamesa (Appendix F).

4.6.2.3. Battery energy storage system option shall comply with the AEP Technical Specification and Design Criteria for Battery Energy Storage Systems (Appendix F).

4.6.3. Resource Analysis: Each project must provide a robust resource analysis as follows:

4.6.3.1. Solar Projects: Each Solar Project must submit all Solar Resource Information (Appendix H).

4.6.3.2. Wind Projects: Each Wind Project must have a robust wind resource analysis/study prepared by an independent consultant which shows the expected energy output from the Project utilizing the turbines that will be used for the Project. Such analysis should include P50, P75, P90, P95 and P99 output with 1-year, 5-year, 10-year, 20-year and 30-year estimates. Bidders are required to provide site information, including raw meteorological data to the Company for use by the Company's independent consultant (Appendix I).

4.6.3.3. BESS Projects: Solar Energy Resource with a co-located battery energy storage system or Standalone BESS Projects are required to submit all BESS Resource Information (Appendix J).

4.6.4. Alternate Proposals (Solar Energy Resource with Storage Option). The Storage Option component of any Proposal must be 1) be integrated with the solar facility and substation, 2) at least 20% of the nameplate rating of the

Solar Energy Resource and, 3) for up to 8 hours of capacity. Bidders are required to submit all required Battery Energy Storage Resource Information (Appendix J).

4.6.5. New Wind or Solar Projects must have a minimum design life of 30 years and battery energy storage system projects must have a minimum design life of 20 years. Operational Projects must have a minimum of 10 years of operational life remaining based on initial design standards.

4.6.6. Proposals that include the use of Union Labor are preferred by APCo, but Proposals with non-Union Labor will be accepted. Bidders must indicate if Projects will comply with Prevailing Wage and Apprenticeship Requirements (PWAR) tied to the full PTC (100%) or the full ITC (30%) provided under the Inflation Reduction Act of 2022.

4.6.7. Bidder shall use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work.

4.6.8. Bidder shall review and follow AEP's Supplier Code of Conduct. The Supplier Code of Conduct can be found at: AEP Code of Conduct

4.7. Interconnection:

4.7.1. Projects must be interconnected to PJM and have a completed PJM System Impact Study. A copy of the study must be included with the Bidder's Proposal.

OR

4.7.2. Projects must be interconnected to APCo's distribution electrical system and must have a completed Distribution Impact Study from the APCo Distribution Planning Group prior to the Proposal Due Date. In addition, the application for the Distribution Impact Study shall have a utility date and time-stamp no later than April 1, 2024, as detailed in Virginia's Administrative Code Section 20VAC5-314-50-A. More information can be found via the following link:

Chapter 314 - Regulations Governing Interconnection of Small Electrical Generators and Storage

4.7.3. If Bidder is pursuing interconnection to the APCo System only, Bidder must provide documentation that it is not required by the PJM Rules to interconnect with PJM due to backfeed into PJM or as otherwise required by PJM.

4.7.4. Bidders are responsible for following the established policies and procedures that are in effect regarding facility interconnection and operation with the interconnecting utility and PJM.

4.7.5. The Bidder is responsible for all costs associated with transmission or distribution interconnections and system upgrades as required by the interconnecting utility and PJM.

5. Bid Price and Structure:

5.1. Development Stage Projects: Development Stage Project Proposals will include a two-component pricing structure (Appendix C) as follows:

5.1.1. Closing Price: The Closing Price will be for the purchase of 100% of the equity interest of the Project's limited liability company (Project LLC). The Closing Price will be paid upon the Bidder satisfying the conditions included in Section 4.1.1. The Closing Price shall also include any costs associated with meeting the credit requirements stated in the Form PSA.

5.1.2. Build-Out Cost Estimate: A Build-Out Cost Estimate, utilizing the Bid Price Breakdown (See Appendix N), shall be provided by the Bidder and is a good faith estimate which will include, but is not limited to, all estimated direct costs to further develop, permit, engineer, procure equipment, construct, startup and commission the facility.

5.2. Completed Projects:

5.2.1. Proposal pricing must be for the Company's acquisition of a turnkey Project that is a complete, commercially operable, and integrated wind or solar powered electric generating plant or standalone BESS (Appendix C).

5.2.2. Seller shall use Appendix C, and any other attachments as needed, to fully articulate the pricing of its Proposal.

5.2.3. The PSA will be for the purchase of 100% of the equity interest of the Project LLC at the completion and commissioning of new Projects. Payment by APCo to the Bidder will be at or near Substantial Completion for Wind and Solar Projects and at Mechanical Completion for BESS Projects. The Company will not make any progress payments.

5.2.4. The following sub-sections are specific Bid Price requirements for Wind, Solar, and BESS.

5.2.4.1. Wind Projects: Wind Projects must be designed for a minimum 30-year life (10-years remaining for Operational Resources). Pricing for Wind Projects must include, but not be limited to, approved wind turbine generators with 30-year life certification (as sited) from manufacturer, balance of plant equipment, operations and maintenance (O&M) facilities, project substation, generation tie-line, SCADA, IT, all facilities required to deliver energy into PJM, post-commercial operation testing activities and associated costs, including

the installation and removal of any temporary test meteorological stations.

5.2.4.2. Solar Projects: Solar Projects must be designed for a minimum 30-year life (10-years remaining for Operational Resources). Pricing for Solar Projects must include, but not be limited to, solar modules, inverters, racking, tracking system, balance of plant equipment, O&M facilities (if applicable), project substation, generation-tie line, SCADA, IT, and all facilities required to deliver energy into PJM or APCo's distribution electrical system.

5.2.4.3. BESS Projects: BESS Projects must be designed for a minimum 20-year life (10-years remaining for Operational Resources). Pricing for BESS Projects must include, but not be limited to, battery storage containers, O&M facilities (if applicable), project substation, generation-tie line, SCADA, IT, and all facilities required to deliver energy into PJM or APCo System.

5.2.5. In addition to Sections 5.2.1 – 5.2.4 above, Proposal pricing must include the costs associated with the following:

5.2.5.1. Costs associated with ALTA/title insurance and construction financing.

5.2.5.2. A minimum of two-year comprehensive warranty from a creditworthy entity for all work and equipment including design, labor and materials, and fitness for purpose;

5.2.5.3. Transmission and interconnection facilities required for the Project, including system or network upgrades, as required by the interconnecting utility and PJM;

5.2.5.4. All costs associated with the development, engineering, procurement, construction, commissioning and testing of the facility;

5.2.5.5. Transfer of all property rights and/or any land lease(s) / easements. The Bidder must own the land hosting the O&M facility and the project substation in fee simple and not leased;

5.2.5.6. Any costs associated with meeting the credit requirements stated in the Form PSA.

5.3. Project Payment Schedule:

5.3.1. Development Stage Projects: The PSA will be for the purchase of 100% of the equity interest of the Project LLC. One payment under the PSA will be made at Closing.

5.3.2. Completed Projects: The PSA will be for the purchase of 100% of the equity interest of the Project LLC. Two payments under the PSA will be made at

Substantial Completion and Final Completion. (See Appendix E – Form Purchase and Sale Agreement for definitions and additional details). The Company will not make any progress payments prior to Substantial Completion.

5.4. Prices must be firm, representing best and final bid. Proposals and bid pricing must be valid for at least 150 days after the Proposal Due Date.

5.5. The Proposal shall not be contingent upon awarding an operations and maintenance agreement for the Project and Proposal Bid Price shall not be contingent upon an operations and maintenance agreement for the Project.

6. RFP Schedule

6.1. The schedule and deadlines set out in this section apply to this RFP. APCo reserves the right to revise this schedule at any time and at its sole discretion.

RFP Schedule	Target Date
RFP Issued	05/13/24
Proposal Due Date	07/30/24 (3 p.m. EST)
Final Project Selection	10/11/24
Contract Execution	By 04/25/25
Submit Petition to State Regulatory Commissions for Approval	By 05/02/25
Receipt of Regulatory Approval Order(s)	By 11/03/25
Closing (Development Stage Projects)	By 01/09/26
Notice to Proceed (NTP) (Completed Projects)	By 01/09/26
Commercial Operation	By 12/15/28

7. Proposal Submission

7.1. Bidders will be required to sign a Confidentiality Agreement (CA) prior to receiving detailed instructions on how to access the following documents and submit Proposals.

- Form PSA (Appendix E)
- AEP Generation Facility Standards (Appendix F)
- Solar Resource Information (Appendix H)
- Wind Resource Information (Appendix I)
- Battery Energy Storage Resource Information (Appendix J)
- "Project Land Decom Property Taxes" spreadsheet (Appendix K)
- "Bid Price Breakdown" spreadsheet (Appendix N)
- Permitting Plan (Appendix O)

7.2. Bidder should request APCo's Form CA by emailing (APCo2024RFP@aep.com) and including the following documentation:

- Supporting documentation of Bidder's experience in developing, engineering, procuring equipment, constructing and commissioning similar wind, solar powered electric generation facilities or Standalone BESS in the United States or Canada of a size comparable to that of the Bidder's proposed Project and/or otherwise have demonstrated appropriate experience.
- Verification of substantial Site Control as required by Section 4.6.1.
- Completed PJM System Impact Study as required by Section 4.7.1 or has an existing APCo distribution interconnection application (submitted no later than April 1, 2024) with the APCo Distribution Planning Group as required by Section 4.7.2.

7.3. Proposals must be complete in all material respects and shall be submitted electronically no later than 3 p.m. EST on the Proposal Due via a Box site. Detailed instructions on how to submit Proposals will be provided upon signing a CA.

7.4. The Company reserves the right to solicit additional Proposals, if it deems necessary to do so, and the right to submit additional information requests to Bidders during the Proposal evaluation process.

7.5. Proposals and bid pricing must be valid for at least 150 days after the Proposal Due Date at which time Proposals shall expire unless the Bidder has been notified that its Proposal has been included in the Final Project Selection.

7.6. A Proposal should be as comprehensive as possible to enable the Company to make a definitive and final evaluation of the Proposal's benefits to its customers without further contact with the Bidder.

8. Proposal Content

Bidders must submit the following information for Proposals. All electronic versions of the Appendices shall be uploaded to the designated folders in the Box site.

8.1. A completed Proposal Content Check Sheet (Appendix A).

8.2. An executive summary of the Project's characteristics and timeline, including any unique aspects and benefits.

8.3. A completed Project Summary (Appendix B) for Solar Projects, Wind Projects, or Standalone BESS, including the electronic Project Summary Form (link to form in the Box site), which must also include the following attachments:

- PTC/ITC Strategy: Summary of how the Project will qualify for Federal Tax Credits including:

- A detailed description of how Projects intend to comply with PWAR tied to full (100%) PTC or full (30%) ITC provided under the Inflation Reduction Act of 2022. This includes the Bidder's process and tools (e.g., software) for collecting, organizing, and retaining sufficient records to establish compliance with PWAR and ability to timely deliver records for review during a Project. These records are expected to provide information necessary to make a determination as to whether the Project satisfies PWAR under current IRS guidance.
- Detailed information regarding the Project's ability to qualify for bonus credits provided under the Inflation Reduction Act of 2022 (i.e., Domestic Content Bonus Credit and Energy Community Bonus Credit).

- Interconnection Studies: Include a copy of all completed interconnection studies (i.e., System Impact Study, Facilities Study, etc.).
- Site Layout: Include a diagram or map identifying the Project boundary with anticipated placement of major equipment and other project facilities, including transmission layouts and point of interconnection.
- Site Control Documents: Attach a copy of all leases, easements or other ownership documentation including to the point of interconnection.
- Environmental Report Summary: Attach a summary of all environmental studies, reports and agency meetings associated with the Project.
- Equipment Warranty Information: Include detailed information regarding the equipment (i.e., wind turbine, solar module, inverter, battery energy storage resource, etc.) manufacturer's warranty offering including parts and labor coverage and other key terms.

8.4. A completed Proposal Bid Pricing (Appendix C).

8.5. A completed Bidder's Credit-Related Information and Bidder Profile (Appendix D), which must include:

- The identity of all persons and entities that have a direct or indirect ownership interest in the Project.
- Copies of the Annual Reports for the three most recent fiscal years and quarterly reports for the most recent quarter ended, if available.
- At least three third-party references.

8.6. Acknowledgement that the applicable Form PSA is acceptable to Bidder or a comprehensive list of exceptions to the terms and conditions contained in the Form PSA (Appendix E).

8.7. Acknowledgement that the applicable AEP Generation Facility Standard and Scope of Work are acceptable to Bidder or a list of any proposed comments or exceptions it

takes to the applicable AEP Generation Facility Standard and Scope of Work (Appendix F).

8.8. Acknowledgement that the AEP Requirements for Connection of Facilities are acceptable or a list of any proposed exceptions to the AEP Requirements for Connection of Facilities (Appendix G).

8.9. All required Resource Information for the corresponding resource type (Appendix H, Appendix I, Appendix J).

8.10. Battery Energy Storage System Option: Bidders providing an alternate Proposal for a Solar energy resource with a co-located battery energy storage system shall provide this option separate from the base Solar energy resource Proposal. This optional Proposal shall include all applicable information from this section in addition to technical, operating, performance, and warranty details associated with the battery energy storage system. Any battery energy storage project offered shall comply with the AEP Technical Specification and Design Criteria for Battery Energy Storage Systems (Appendix J).

8.11. A completed Appendix K, which must include:

- Expected Land Lease Costs by year for at least a 35-year operating period for Wind and Solar Projects, and at least a 25-year period for Standalone BESS. Projects must report all land obligations (e.g., options to lease or purchase land, royalties, easement payments, etc.) to ensure APCo has a full understanding of the all-in costs to support the land rights needed for the Project. Any leases that include revenue-based royalty structures will need to be amended prior to closing any PSA transaction. Land Lease Costs will be used in the Company's Economic Analysis (Section 9.2.1);
- Estimated decommissioning costs including typical costs to remove the facility and restore the site, any bond release or other end-of-life payment obligations, and any expected salvage value. In addition, Bidder shall provide any completed decommissioning studies;
- Expected Property Taxes, including any abatements or payments in lieu of taxes (PILOTs). In addition, Bidder shall provide a written description of the current status of efforts to secure abatements or PILOTs being sought, details about any local or state abatement programs available and restrictions on such programs, and how such figures were determined and calculated.

8.12. Bidder shall provide basic project technical due diligence material (Appendix L).

8.13. A completed Appendix M, which must include:

- Use of Local Goods & Services: Plan for the use of local goods or services sourced, in whole or in part, from one or more Virginia or West Virginia businesses in the construction and/or operation of the Project. The bidder

should identify these Virginia or West Virginia resources in its Proposal. (Section 4.5).

- Use of Small & Diverse Suppliers: Plan to use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work (Section 4.6.7).
- Environmental Justice: A description of environmental justice factors by the Environmental Justice Act (Virginia Code §§ 2.2-234, et. Seq.) that are relevant to the Project. If an Environmental Justice or Fenceline community is potentially affected by the Project, list the steps taken by the Project regarding the Commonwealth of Virginia's environmental justice policy.

8.14. Bid Price Breakdown: Bidder shall provide a completed Bid Price Breakdown (Appendix N).

8.15. Permitting Plan: Attach a comprehensive permit matrix that lists and describes all required permits, including, but not limited to, Federal (USFWS, FAA), State, County, City, etc. as detailed in Appendix O. For each permit, include the status, duration, planned steps, any known mitigation requirements, critical milestones and timelines.

8.16. Development Stage Projects: Bidders submitting a Development Stage Project Proposal for ownership transfer to APCo as described in Section 4.1.1 shall include:

- Build-Out Cost Estimate, utilizing the Bid Price Breakdown (Appendix N);
- Additional Proposal Content (Appendix P);
- Optional Development Services Agreement (Appendix Q): Bidder may provide a proposal for a Development Services Agreement to complete development (e.g., permitting, land title perfection, interconnection studies, etc.) of the proposed Development Stage Project for ownership transfer at or near the time that Notice to Proceed would occur. For avoidance of doubt, APCO will consider Proposals for sale of Development Stage Projects with and without a Development Services Agreement. Interested Bidders are requested to provide a term sheet or draft form of Development Services Agreement.

8.17. Operational Projects: Bidders submitting Operational Project Proposals shall include Additional Proposal Content detailed in Appendix R.

9. Proposal Evaluation

Proposals must include all applicable content requirements as described in Section 8. APCo will consider bids that are reliable, feasible and represent a reasonable cost means of satisfying the requirements of this RFP. The Evaluation Process, which includes three phases, is central to the success of APCo's RFP process.

Section 9.1: Eligibility and Threshold Requirements
Section 9.2: Detailed Analysis

Section 9.3: Final Project Selection

9.1. Eligibility and Threshold Requirements: A preliminary screening of each Proposal will be undertaken by the Company to determine if the Proposal is eligible to proceed to the Detailed Analysis phase. Bidders and their associated Proposals must satisfy the following Eligibility and Threshold Requirements:

9.1.1. Base Proposal must be for a Purchase and Sale Agreement for a Solar Project, Wind Project, or a Standalone BESS (Section 3.7).

9.1.2. Development Stage Projects must be located in Virginia or West Virginia. Bidder must provide a detailed plan for achieving the criteria detailed in Section 4.1.1 regarding 100% Site Control (including description of known land title defects and plan for curing), PJM Agreements, Preliminary Engineering, Permitting, and completion of Phase I Environmental Site Assessment Report.

9.1.3. Projects must have an Expected COD by 12/15/2028 (Section 4.2).

9.1.4. Project must have a minimum nameplate rating as follows (Section 4.3):
- PJM Resources: 50 MWac minimum for Wind, Solar, and Solar Energy Resources with a co-located battery energy storage system. 10 MWac minimum for Standalone BESS.
- APCo Distribution Resources: 10 MWac minimum for Solar, Solar Energy Resources with a co-located battery energy storage system, and Standalone BESS.

9.1.5. Projects must be physically located in the PJM Interconnection L.L.C. Region (e.g., interconnect to the PJM Transmission system) or the APCo System (Section 4.4).

9.1.6. Bidder must have established substantial Site Control (Section 4.6.1).

9.1.7. Equipment Supplier Requirements: Wind Projects, Solar Projects, and BESS must be manufactured by those approved vendors in the applicable AEP Generation Facility Standard (Section 4.6.2).

9.1.8. Resource Information: Bidder must submit all required Resource Information listed in Appendix H (Solar), Appendix I (Wind) and Appendix J (Battery Energy Storage) for the proposed resource type (Section 4.6.3).

9.1.9. New Solar or Wind Projects must have a minimum design life of 30 years and Battery Energy Storage Projects must have a minimum design life of 20 years. Operational Projects must have a minimum of 10 years of operational life remaining based on initial design standards (Section 4.6.5).

9.1.10. Bidder must have 1) a completed PJM System Impact Study (Section 4.7.1) which remains active in the PJM queue, or 2) submitted the application for the Distribution Impact Study no later than April 1, 2024, and received a completed APCo Distribution Impact Study prior to the Proposal Due Date. (Section 4.7.2).

9.1.11. Bidder is required to include requested financial information (Appendix D) so that the Company can conduct a financial wherewithal assessment. The Proposal Bid Price shall include any costs associated with meeting the credit requirements stated in the Form PSA (Section 5.2.5.6).

9.1.12. Proposal Bid Price shall not be contingent upon an operations and maintenance agreement for the Project (Section 5.5).

9.1.13. Bidder or its affiliates shall have completed the development, engineering, equipment procurement and construction of similar solar, wind, or BESS projects within the United States or Canada of a size comparable to that of the Bidder's proposed Project and/or have demonstrated appropriate experience (Section 7.2).

9.1.14. Bidder's exceptions to the Form PSA, considered individually or in the aggregate, are minimally acceptable to the Company as a basis for further discussions (Section 8.6).

9.1.15. Proposal must include detailed exceptions, if any, to the applicable AEP Generation Facility Standard and Scope of Work in Appendix F (Section 8.7).

9.1.16. Bidder must address Environmental Justice requirements (Section 8.13).

9.1.17. The Company reserves the right to reject any Proposal which proceeded to the Detailed Analysis phase but which is subsequently determined by the Company not to satisfy the Eligibility and Threshold Requirements.

9.2. Detailed Analysis: Proposals meeting the Eligibility and Threshold Requirements in Section 9.1 will move to the Detailed Analysis phase, which is comprised of the Economic Analysis and the Non-Price Factor Analysis set forth below.

9.2.1. Economic Analysis: The Economic Analysis will include the calculation of the following financial metrics, which will provide multiple perspectives on cost and value:

- Levelized Adjusted Net Cost of Energy (LANCOE),
- Levelized Adjusted Net Cost of Capacity (LANCOC), and
- Value to Cost (V/C) Ratio.

LANCOE and/or LANCOC will be the primary ranking of projects. The consideration of each will be based on nature of the project as predominantly providing energy or capacity value or some comparable amount of each.

V/C Ratio will be the primary ranking metric for comparing across generation of different types. Additional details of the three financial metrics described above are as follows with supporting definitions below:

$$\text{LANCOE (\$/MWh)} = \frac{\text{Total Cost (\$)} - \text{Total Value (\$)}}{\text{Present Value of Projected Energy Production (MWh)}}$$

$$\text{LANCOC (\$/MW-Day)} = \frac{\text{Total Cost (\$)} - \text{Total Value (\$)}}{\text{Present Value of Projected PJM Accredited Capacity (MW)}}$$

$$\text{V/C Ratio} = \frac{\text{Total Value}}{\text{Total Cost}}$$

Total Cost: The Company will determine the present value of the costs of each qualifying Proposal. This Total Cost calculation is based on a PSA Proposal's Bid Price ($M)[2] plus projected operations and maintenance costs (including land lease costs), Transmission and Congestion costs, tax expenses, decommissioning costs (including expected salvage), terminal value, and applicable Federal Tax Credits. Other costs may be included based on the Company's discretion to appropriately evaluate each Proposal to ensure the Company is comparing all qualifying Proposals on an equivalent basis.

Total Value: The Company will determine the present value of all the value streams of each qualifying Proposal. The value streams include the expected PJM revenues for the Proposal's energy and ancillary services, the expected value of renewable energy certificates (RECs), capacity value, and any applicable terminal value. Additionally, other value streams and financial metrics may be included based on the Company's discretion to appropriately evaluate each Proposal to ensure the Company is comparing all qualifying Proposals on an equivalent basis.

Transmission and Congestion Costs: Transmission and Congestion Costs will be determined by the Company's transmission screening analysis. The transmission screening analysis will evaluate (i) transmission facilities cost and the network upgrade cost allocated to the Proposal, (ii) expected cost of transmission congestion and losses to the APCo load zone and (iii) cost of deliverability and curtailment risk mitigation that the Company calculates to

[2] Bid Price for Development Stage Projects will include the Proposal's Closing Price in addition to the Proposal's Build-Out Cost Estimate, which may be modified by APCo in its sole discretion.

ensure that the resources can be designated as firm resources to meet Company's capacity obligations. Transmission and Congestion Costs will be included in Total Cost calculations.

Accredited Capacity: Accredited Capacity shall be computed by adjusting a qualifying Proposal's applicable nameplate by the forecasted adjustments that are used, or are expected to be used, by the PJM RTO to determine the number of MW that the Company will be credited for use in meeting applicable capacity obligations. These adjustments will include, but are not limited to, summer and winter Effective Load Carrying Capability (ELCC) adjustments and forced outage rate adjustments.

9.2.2. Non-Price Factor Analysis: The Non-Price Factor Analysis will be comprised of the following factors:

9.2.2.1. Project Location. The Company has a preference for Projects that are located in VA or WV, on Eligibles Sites (See Section 3.5) and interconnected to APCo's Transmission or Distribution System.

9.2.2.2. Project's (including associated transmission and interconnection facilities) impact on wildlife, the environment and other natural and cultural resources.

9.2.2.3. Project's (including associated transmission and interconnection facilities) impact on Environmental Justice and Fenceline communities.

9.2.2.4. Bidder's exceptions to the Form PSA. The Company will review the exceptions the Bidder proposed to the Company's form agreement with a focus on risks or additional costs to the Company. Prior agreement by AEP in previous negotiations does not constitute acceptance of an exception.

9.2.2.5. Bidder's exceptions to the applicable AEP Generation Facility Standard and Scope of Work.

9.2.2.6. The development status of Bidder's generation facility including, but not limited to, site control, permitting status, design, engineering, major equipment and construction labor arrangements (e.g., wind turbines, solar panels, inverters, racking and tracking, main power transformers, collector station breakers, BESS, other equipment, and BOP agreements), community relations, etc.

9.2.2.7. Status of interconnection process with PJM or APCo distribution, as applicable.

9.2.2.8. Bidder's ability to meet contractual credit requirements through the review of recent financial statements, ability to post collateral and raise capital, and any other relevant financial information including current credit ratings will also be assessed.

9.2.2.9. Community relations and economic development considerations, including Bidder's plan to use small and diverse suppliers as subcontractors.

9.2.2.10. Bidder's use of 1) Virginia or West Virginia sourced goods or services or, 2) Virginia, West Virginia or United States-based manufacturers using materials or product components made in Virginia, West Virginia or the United States.

9.2.2.11. Bidder's experience in developing similar projects as included in the Proposal as well as Bidder's operating history of similar generation facilities.

9.3. Final Project Selection: APCo will consider bids that are reliable, feasible and represent a reasonable cost means of satisfying the requirements of this RFP. Based on the results of the Detailed Analysis described above, the Company will determine which Projects will be included in the Final Project Selection. The Company will notify Bidders whether or not their Proposal has been selected and negotiation of definitive agreements will commence with Bidders whose Proposals have been selected.

10. Reservation of Rights

A Proposal will be deemed accepted only when the Company and the successful Bidder have executed definitive agreements for the Company's acquisition of the Project. The Company has no obligation to accept any Proposal, whether or not the stated price in such Proposal is the lowest price offered, and the Company may reject any Proposal in its sole discretion and without any obligation to disclose the reason or reasons for rejection.

By participating in the RFP process, each Bidder agrees that any and all information furnished by or on behalf of the Company in connection with the RFP is provided without any representation or warranty, express or implied, as to the usefulness, accuracy, or completeness of such information, and neither the Company nor its Affiliates nor any of their personnel or representatives shall have any liability to any Bidder or its personnel or representatives relating to or arising from the use of or reliance upon any such information or any errors or omissions therein.

The Company reserves the right to modify or withdraw this RFP, to negotiate with any and all qualified Bidders to resolve any and all technical or contractual issues, or to reject any or all Proposals and to terminate negotiations with any Bidder at any time in its sole discretion. The Company reserves the right, at any time and from time to time, without

prior notice and without specifying any reason and, in its sole discretion, to (a) cancel, modify or withdraw this RFP, reject any and all Proposals, and terminate negotiations at any time during the RFP process; (b) discuss with a Bidder and its advisors the terms of any Proposal and obtain clarification from the Bidder and its advisors concerning the Proposal; (c) consider all Proposals to be the property of the Company, subject to the provisions of this RFP relating to confidentiality and any confidentiality agreement executed in connection with this RFP, and destroy or archive any information or materials developed by or submitted to the Company in this RFP; (d) request from a Bidder information that is not explicitly detailed in this RFP, but which may be useful for evaluation of that Bidder's Proposal; (e) determine which Proposals to accept, favor, pursue or reject; (f) reject any Proposals that are not complete or contain irregularities, or waive irregularities in any Proposal that is submitted; (g) accept Proposals that do not provide the lowest evaluated cost; (h) determine which Bidders are allowed to participate in the RFP, including disqualifying a Bidder due to a change in the qualifications of the Bidder or in the event that the Company determines that the Bidder's participation in the RFP has failed to conform to the requirements of the RFP; (i) conduct negotiations with any or all Bidders or other persons or with no Bidders or other persons; (j) execute one or more definitive agreements with any Bidder, and (k) utilize a Bidder's completed Appendices and any supplemental information submitted by the Bidder in any its regulatory filings.

11. Confidentiality

APCo will take reasonable precautions and use reasonable efforts to maintain the confidentiality of all bids submitted. Bidders should clearly identify each page of information considered to be confidential or proprietary. APCo reserves the right to release any Proposal to agents or consultants for purposes of Proposal evaluation. APCo's disclosure policies and standards will automatically bind such agents or consultants. Regardless of the confidentiality, all such information may be subject to review by or in proceedings before the appropriate state authority, or any other governmental authority or judicial body with jurisdiction relating to these matters and may be subject to legal discovery. Under such circumstances, APCo and AEPSC will make reasonable efforts to protect Bidder's confidential information.

12. Bidder's Responsibilities

12.1. It is the Bidder's responsibility to submit all requested material by the deadlines specified in this RFP.

12.2. The Bidder should make its Proposal as comprehensive as possible so that APCo may make a definitive and final evaluation of the Proposal's benefits to its customers without further contact with the Bidder.

12.3. Bidders are responsible for the timely completion of the project and are required to submit proof of their financial and technical wherewithal to ensure the successful completion of the project.

12.4. The Bidder will be responsible for any expenses Bidder incurs in connection with the preparation and submission of a Proposal and/or any subsequent negotiations regarding a Proposal in response this RFP. APCo will not reimburse Bidders for their expenses under any circumstances, regardless of whether the RFP process proceeds to a successful conclusion or is abandoned by APCo at its sole discretion.

13. Contacts

13.1. General RFP Questions: All correspondence and questions regarding this RFP, with the exception of interconnection-related questions, should be directed to:

APCo2024RFP@aep.com

13.2. PJM Interconnection: All correspondence and questions regarding the PJM Interconnection process can be found at:

PJM Interconnection

13.3. APCo Distribution Interconnection: All correspondence and questions regarding interconnection to the APCo System should be directed to:

APCoDGCoordinator@aep.com

Appendix A

Proposal Content Check Sheet

Section	Item	Completed
8.2	Executive Summary	
8.3	Appendix B (Project Summary)	
	- Completed Electronic Project Summary Form (Link in Box Site)	
	- Company & Project Information	
	- Interconnection (PJM or APCo Distribution)	
	- Site Information / Preliminary Site Questions	
	- Solar / Wind / Battery Energy Storage Projects Completed	
	Attachments Required:	
	- PTC/ITC Strategy	
	- Interconnection Studies	
	- Site Layout	
	- Site Control Documents	
	- Environmental Report Summary	
	- Equipment Warranty Information	
8.4	Appendix C (Proposal Bid Pricing)	
8.5	Appendix D (Bidder's Credit-Related Information)	
8.6	Appendix E (Form Purchase and Sale Agreement)	
8.7	Appendix F (AEP Generation Facility Standard)	
8.8	Appendix G (AEP Requirements for Connection of Facilities)	
8.9	Appendix H (Solar Resource Information)	
	Appendix I (Wind Resource Information)	
	Appendix J (Battery Energy Storage Resource Information)	
8.10	Battery Energy Storage System Option Information	
8.11	Appendix K (Projected Land Lease / Decom. Costs / Property Taxes)	
8.12	Appendix L (Project Technical Due Diligence Material)	
8.13	Appendix M (Local Goods/Services / Small & Diverse Suppliers / EJ)	
8.14	Appendix N (Bid Price Breakdown)	
8.15	Appendix O (Permitting Plan)	
8.16	Appendix P (Development Stage Projects Add'l Proposal Content)	
	Appendix Q (Optional Development Services Agreement)	
8.17	Appendix R (Operational Projects Add'l Proposal Content)	

Appendix B

Project Summary

Company Information

Bidder (Company):		
Contact Name:		
Contact Title:		
Address:		
City:	State:	Zip Code:
Work Phone:	Cell Phone:	
Email Address:		
Is the Proposal being submitted through a partnership, joint venture, consortium, or other association (Y/N)?		
If so, please identify all partners, joint ventures, members, or other entities or persons comprising same:		

General Project Information

Project Name:
Resource Type (Wind, Solar (Storage Option), Standalone BESS):
Project Site Location (County, State):
Expected Commercial Operation Date:
Indicate if Project has substantial site control including to Point of Interconnection (Y/N):
Indicate if Project will qualify for Federal PTC or ITC and applicable percentage (%):
Indicate if Project will comply with Prevailing Wage and Apprenticeship Requirements (PWAR) (Y/N):
Refer to Appendix B (Attachments Required) for PTC/ITC Strategy requested.

Solar Project Information

Module Manufacturer / Model:	Annual Degradation (%):
Configuration (Fixed Tilt / Single Axis):	Design Life (Yrs.):
Inverter Manufacturer / Model:	Expected Annual Availability (%):
Solar Project Nameplate (MWac): Solar Project Nameplate (MWdc):	Remaining Useful Life if Operational (Yrs.):
Expected Annual Energy (MWh):	Capacity Factor (%):
Appendix H (Item 4) 8760 Total (MWh): *(Value MUST match Expected Annual Energy above)*	
Refer to Appendix H (Solar Resource Information) for additional solar information requested.	

Wind Project Information

Wind Turbine Manufacturer:	Model:
Wind Project Nameplate (MWac):	Design Life (Yrs.):
Number of Turbines:	Remaining Useful Life if Operational (Yrs.):
Independent Wind Resource Study Included (Y/N):	Source of Independent Wind Resource Study:
Indicate if turbine-specific site suitability report completed/included in Proposal (Y/N):	
Indicate if turbines have a cold weather package included (Y/N):	
Year 1 Expected Annual Energy (MWh)[1]:	Year 1 Capacity Factor (%)[1]:
Expected Annual Energy (MWh)[2]:	Capacity Factor (%)[2]:
	Expected Annual Availability (%):
Appendix I (Item 8) 8760 Total (MWh): *(Value MUST match Expected Annual Energy above)*	
Note 1: Year 1 production data is required to account for potential lower Year 1 production due to routine maintenance associated with the break-in period. *Note 2: Expected Annual Energy (MWh) represents a typical year's production following Year 1.*	
Refer to Appendix I (Wind Resource Information) for additional wind information requested.	

Battery Energy Storage Information (if applicable)

Battery Storage Resource Description:
Battery Storage Project Nameplate Rating (MWac):
Battery Storage Project Winter Rating (MWac):
Battery Storage Project Summer Rating (MWac):
Battery Storage Project PJM Capacity Value (MWac):
Nameplate rating (MWac) of the co-located battery energy storage system as a percentage of the nameplate rating (MWac) of the Solar Energy Resource (%), if applicable:
Duration (Hours):
Economic Life (Years):
Refer to Appendix J (Battery Energy Storage Resource Information) for additional information requested.

Interconnection (PJM)

PJM Queue #:	Substation Name / Voltage:
Transmission Provider:	
Point of Interconnection with:	
Feasibility Study Complete (Y/N):	Feasibility Study Report Date:
System Impact Study Complete (Y/N):	System Impact Study Report Date:
Facilities Study Complete (Y/N):	Anticipated Facilities Study Completion Date:
PJM Interconnection Status (describe):	
Refer to Appendix B (Attachments Required) for Interconnection Studies requested.	

Interconnection (APCo Distribution)

Application #:	Substation Name / Voltage:
Distribution Impact Study Complete (Y/N):	Distribution Impact Study Report Date:
Interconnection Cost Estimate:	
APCo Distribution Interconnection Status (describe):	
Refer to Appendix B (Attachments Required) for Interconnection Studies requested.	

Site Information

Site Legal Description:		
Address:		
City:	State:	Zip Code:
County:	Latitude:	Longitude:
Site Control (lease, easement, own, site purchase pending, etc.):		
Site Acres Required:	Site Acres Secured:	
	Site Acres Secured (as % of Req.):	
Is there potential for expansion (Y/N):	If yes, acres available:	
Refer to Appendix B (Attachments Required) for Site Layout and Site Control Documents requested.		

Preliminary Site Questions (Y/N)

Has the site been assessed for any environmental contamination? Describe any known environmental issues on a separate attachment.	
Are there any Tribal Lands or Tribal mineral ownership rights within Project boundary or vicinity?	
Are there any Federal or State owned or controlled lands within Project boundary or vicinity?	
Is the Project located on currently or formally mined lands?	
Is the site adjacent or near an Environmental Justice or Fenceline community?	
Have any Federal or State wildlife resource agencies been consulted for the Project?	
Has The Nature Conservancy or any non-governmental environmental organizations been engaged?	
Are there Conservation Reserve Program, Wetland Reserve Program or other conservation easements within the Project boundary or vicinity?	
Are there any pollinator vegetation requirements associated with the project?	
Is there any Federal nexus to the Project, including Federal loans?	
Refer to Appendix B (Attachments Required) for the Environmental Report Summary requested.	

Solar Projects Completed

Provide a summary of all solar projects that Bidder has successfully developed and completed in the United States or Canada of a size comparable to that of the Bidder's proposed Project. For each project, describe the Bidder's specific role in the project.

Project	Location	MW	COD	Bidder's Role
Total MW =				

Wind Projects Completed

Provide a summary of all wind projects that Bidder has successfully developed and completed in the United States or Canada of a size comparable to that of the Bidder's proposed Project. For each project, describe the Bidder's specific role in the project.

Project	Location	MW	COD	Bidder's Role
Total MW =				

Battery Energy Storage Projects Completed

Provide a summary of all battery energy storage projects that Bidder has successfully developed and completed in the United States or Canada of a size comparable to that of the Bidder's proposed Project. For each project, describe the Bidder's specific role in the project.

Project	Location	MW	COD	Bidder's Role
Total MW =				

Attachments Required

PTC/ITC Strategy: Summary of how the Project will qualify for Federal Tax Credits (e.g., PTCs or ITCs) including: • A detailed description of how Projects intend to comply with PWAR tied to full (100%) PTC or full (30%) ITC provided under the Inflation Reduction Act of 2022. This includes the Bidder's process and tools (e.g., software) for collecting, organizing, and retaining sufficient records to establish compliance with PWAR and ability to timely deliver records for review during a Project. These records are expected to provide information necessary to make a determination as to whether the Project satisfies PWAR under current IRS Guidance. • Detailed information regarding the Project's ability to qualify for bonus credits provided under the Inflation Reduction Act of 2022 (i.e., Domestic Content Bonus Credit and Energy Community Bonus Credit).
Interconnection Studies: Include a copy of all completed interconnection studies (i.e., System Impact Study, Distribution Impact Study, Facilities Study, etc.).
Site Layout: Attach a diagram or map identifying the Project boundary with anticipated placement of major equipment and other project facilities, including transmission layouts and Point of Delivery.
Site Control Documents: Attach a copy of all leases, easements or other ownership documentation including to the point of interconnection.
Environmental Report Summary: Attach a summary of all environmental studies, reports and agency meetings associated with the Project. Summarize the following reports (including data summaries, results and findings) as applicable, which will be requested at a later time, including, but not limited to: • Critical Issues Analysis, Site Characterization Assessment, Environmental Work / Survey Plan, Federal / State Rare, Threatened or Endangered Species Assessments and Surveys, Bat Acoustic Survey Report, Avian Use Survey Report, Raptor Nest Survey Report, Prey-based Survey Report, Wetland and Waters Delineation / Assessment Report, Phase I Environmental Site Assessment Report, Historical and Cultural Resource Survey / Assessment Report, All Other Environmental Resource Surveys, Assessments and Study Reports, Record and Notes of all Federal and/or State Resource Agency Correspondence and Meetings, Environmental Justice Analyses, Aviation / FAA and Glare Studies, Radar Study, Noise and Shadow Flicker Study, Associated Project Infrastructure and Environmental Resource Shapefiles (.kmz format), and Bird and Bat Conservation Strategy and Eagle Conservation Plan (if available).
Equipment Warranty Information: Include detailed information regarding the equipment (i.e., solar module, inverter, battery energy storage resource, etc.) manufacturer's warranty offering including parts and labor coverage and other key terms.

Appendix C

Proposal Bid Pricing

Completed Project: Base Proposal Bid Pricing

Project Name	
Resource Type (Wind, Solar, BESS)	
Expected COD by	
Equipment Manufacturer	
Expected Annual Energy (MWh)	
Capacity Factor (%)	
Bid Price ($)	

Does Bid Price include use of union labor (Y/N)?	
Does Bid Price include an O&M building (Y/N)?	
Does Bid Price take into consideration the AEP Requirements for Connection of Facilities (Appendix G) (Y/N)?	

Completed Project: Alternate Proposal Bid Pricing (Base Proposal w/ Storage Option)

Project Name	
Resource Type (Solar w/ BESS)	
Expected COD by	
Equipment Manufacturer	
Expected Annual Energy (MWh)	
Capacity Factor (%)	
Bid Price ($)	

Does Bid Price include use of union labor (Y/N)?	
Does Bid Price include an O&M building (Y/N)?	
Does Bid Price take into consideration the AEP Requirements for Connection of Facilities (Appendix G) (Y/N)?	

Development Stage Project: Base Proposal Bid Pricing

Project Name	
Resource Type (Solar, BESS)	
Expected COD by	
Equipment Manufacturer	
Expected Annual Energy (MWh)	
Capacity Factor (%)	
Closing Price ($)	
Build-Out Cost Estimate ($)[1]	

Does Bid Price include use of union labor (Y/N)?	
Does Bid Price include an O&M building (Y/N)?	
Does Bid Price take into consideration the AEP Requirements for Connection of Facilities (Appendix G) (Y/N)?	

Development Stage Project: Alternate Proposal Bid Pricing (Base Proposal w/ Storage Option)

Project Name	
Resource Type (Solar w/BESS)	
Expected COD by	
Equipment Manufacturer	
Expected Annual Energy (MWh)	
Capacity Factor (%)	
Closing Price ($)	
Build-Out Cost Estimate ($)[1]	

Does Bid Price include use of union labor (Y/N)?	
Does Bid Price include an O&M building (Y/N)?	
Does Bid Price take into consideration the AEP Requirements for Connection of Facilities (Appendix G) (Y/N)?	

Note 1: Build-Out Cost Estimates shown must match totals included in Bid Price Breakdown (Appendix N).

Appendix D

Bidder's Credit-Related Information

Full Legal Name of the Bidder:
Type of Organization (Corporation, Partnership, etc.):
Bidder's % Ownership in Proposed Project (as of Proposal submittal date):
If Bidder's Ownership is <100%, identity of all persons and entities that have a direct or indirect ownership interest in the Project:
Full Legal Name(s) of Parent Corporation: 1. 2. 3.
Entity Providing Credit Support on Behalf of Bidder (if applicable): Name: Address: City: Zip Code:
Type of Relationship of Credit Support Provider:
Current Senior Unsecured Debt Rating (if unavailable, Issuer Rating): 1. S&P: 2. Moody's:
Bank References & Name of Institution:
Bank Contact: Name: Title: Address: City: Zip Code: Phone Number:
Legal Proceedings: As a separate attachment, please list all lawsuits, regulatory proceedings, or arbitration in which the Bidder or its affiliates or predecessors have been or are engaged that could affect the Bidder's performance of its bid. Identify the parties involved in such lawsuits, proceedings, or arbitration, and the final resolution or present status of such matters.
Financial Statements: Please provide copies of the Annual Reports for the three most recent fiscal years and quarterly reports for the most recent quarter ended, if available. If available electronically, please provide link:

Bidder Profile

Please list Bidder's Affiliate companies:

1.
2.
3.
4.

Please list Bidder's references:

1. Company:
   a. Contact Name:
   b. Contact Number:
   c. Project:

2. Company:
   a. Contact Name:
   b. Contact Number:
   c. Project:

3. Company:
   a. Contact Name:
   b. Contact Number:
   c. Project:

4. Company:
   a. Contact Name:
   b. Contact Number:
   c. Project:

Appendix E

Form Purchase and Sale Agreement

See Section 7.2 for instructions to obtain the applicable Form Purchase and Sale Agreement.

Completed Projects: The Form Purchase and Sale Agreement (PSA) is structured for a Completed Project (Section 4.1.2) and purchase of the Project LLC at Substantial Completion.

Development Stage Projects: The Form PSA will be modified for a Closing to occur at or near the time that Notice to Proceed would occur under the Form PSA. The conditions to Closing under such a PSA would depend on the stage of development of the Project and the results of APCo's due diligence, but at a minimum, the requirements will include:

(i) regulatory approval shall have been obtained (Section 3.11),
(ii) 100% Site Control (including without limitation any necessary crossing agreements and resolution of any land title defects or encumbrances that are not acceptable to APCo) (Section 3.7.1.1),
(iii) the final title policy for the Project real property and the preliminary survey shall have been issued and be acceptable to APCo,
(iv) the final PJM interconnection service agreement and interconnection construction service agreement shall have been fully executed and, to the extent required, approved by FERC (Section 3.7.1.2),
(v) completion of Preliminary Engineering (10%) (Section 3.7.1.4),
(vi) completion of Permitting (Appendix O) appropriate for the development stage of the Project necessary to construct, install, assemble, interconnect, own, operate and maintain the Project (Section 3.7.1.5), and
(vii) delivery of a Phase I environmental assessment with respect to the Project real property dated within 180 days of the Closing Date, together with a reliance letter in favor of and acceptable to APCo, that either (1) confirms that no Recognized Environmental Conditions exist or (2) is accompanied by Seller's plan for removal, remediation or avoidance of such Recognized Environmental Conditions that is acceptable to APCo (Section 3.7.1.6).

Other conditions to Notice to Proceed, and conditions to Closing that are applicable to closing at or near Notice to Proceed, will be consolidated as conditions to Closing. In addition to the foregoing, the covenants, representations and warranties in the Form PSA will need to be updated to reflect a Closing at or near Notice to Proceed including, among other changes, deleting Section 3.12 (Force Majeure) and Section 3.19 (Change in Law) from the Form PSA because the Seller will not be responsible for the construction of the Project. Other conforming changes will be made to the Form PSA as appropriate.

Bidder must provide 1) acknowledgement that the Form PSA is acceptable, or 2) a compressive list of exceptions to the terms and conditions contained in the Form PSA.

Appendix F

AEP Generation Facility Standards

See Section 7.2 for instructions to obtain the applicable AEP Generation Facility Standard and Scope of Work.

- Solar:
  - GEN-4550 Solar Projects Technical Spec Rev 14
  - APCo 2024 RFP Technical Addendum 1
  - Solar SOW (Scope of Work) R10
  - Environmental Vegetation Management Plan Expectations and Template
  - Renewable Projects Quality Assurance Plan Requirements
- Wind
  - GEN-4560 Wind Farm Technical Spec Rev 9
  - APCo 2024 RFP Technical Addendum 1
  - Wind SOW (Scope of Work) R10
  - Environmental Vegetation Management Plan Expectations and Template
  - Renewable Projects Quality Assurance Plan Requirements
- Battery Energy Storage:
  - GEN-4570 BESS Technical Spec Rev 6
  - APCo 2024 RFP Technical Addendum 1
  - BESS SOW (Scope of Work) R2
  - Environmental Vegetation Management Plan Expectations and Template
  - Renewable Projects Quality Assurance Plan Requirements

Bidder must provide acknowledgement that the applicable AEP Generation Facility Standard and Scope of Work are acceptable or a list of any proposed comments or exceptions it takes to the applicable AEP Generation Facility Standard and Scope of Work.

Appendix G

AEP Requirements for Connection of Facilities

Please follow the link below to access the AEP Requirements for Connection of Facilities ("Requirements for Connection of New Facilities or Changes to Existing Facilities Connected to the AEP Transmission System").

https://www.aep.com/assets/docs/requiredpostings/TransmissionStudies/Requirements/AEP_Interconnection_Requirements_Rev5.pdf

Bidder must provide acknowledgement that the AEP Requirements for Connection of Facilities are acceptable or a list of any proposed exceptions to the AEP Requirements for Connection of Facilities.

Appendix H

Solar Resource Information

See Section 7.2 for instructions to obtain any of the forms/documents identified below:

1. Proposal must provide the source and basis of the solar irradiance data used in the development of energy projections for the Project. Explain all assumptions used in forecasted generation calculations.

2. Bidder must provide the PVsyst, .PAN, and .OND files.

3. Bidder must populate the data required in the Company's "SolarModelingInputSheet_2024" spreadsheet.

4. Bidder must populate the 8760 calendar year hourly energy forecast (P50), net of all losses using the Company's "EnergyInputSheet_2024" spreadsheet.

5. Bidder must provide manufacturer data sheets for the Project's solar modules, inverters, racking, and tracking system.

6. If Bidder has not finalized the solar module manufacturer, they must identify the module options and provide the applicable production data (Expected Annual Energy, Capacity Factor) for each module manufacturer.

7. Bidder must provide the Project Layout along with the contour and elevation data in CAD format.

8. Bidder shall attach module and inverter warranty information with its Proposal.

The following information should be available upon request; however, is not required with the submission of the Proposal.

- All documents related to module availability and electrical system design with losses.

- Any other material that Bidders have used to inform infrastructure setbacks and layout.

Appendix I

Wind Resource Information

See Section 7.2 for instructions to obtain any of the forms/documents identified below:

Required Information

1. Attach the independent wind energy report.
   - Wind report shall also include P50, P75, P90, P95 and P99 production estimates with 1-, 5-, 10-, 20- and 30-year timeframes.*
   - Independent consultant information (resume, contact information) if not included in the wind energy report.
2. Describe on-site meteorological campaign including:
   - Number of met towers
   - Height of met towers
   - Remote sensing (lidar and/or sodar)
   - Number of years of data for each tower/remote sensing device
3. Identify any wind direction sector management or other operation restrictions.
4. Experience of developer in PJM. Identify the number of projects, years each project has been operating, turbine models and capacity rating.
5. Source and basis of the wind speed data used in the development of energy projections for the project. Explain all assumptions for wake losses, line losses, etc. and the location where the data was measured.
6. Wind turbine power curve adjusted for the site's specific air density.
7. Provide a description of the system intended to provide real-time telemetry data.
8. Attach an 8760 calendar year hourly energy forecast (P50), net of all losses, and Auxiliary Load and Station Power the Project expects to consume (See Section 7.2 for instructions to obtain the Company's "EnergyInputSheet_2024" spreadsheet).
9. Bidders shall provide a summary of representative wind data with measurement height referenced and any extrapolations used to estimate the wind speeds at the proposed hub height.
10. Proposed turbine locations (shape file, .kmz file, Excel file with coordinates, including map datum (e.g., WGS84, NAD83).

* Production numbers should reflect Projects built to the AEP Generation Facility Standard (e.g. leading edge protection installed on blades)

The following information should be available upon request; however, is not required with the submission of the Proposal.

- Met tower installation commissioning sheets and all subsequent maintenance documents.
- Raw data files for all on-site met towers.
- If applicable, sodar or lidar documentation and raw data files.
- All documents related to turbine availability, electrical system design with losses.
- Any other material that Bidders have used to inform infrastructure setbacks and layout.

Appendix J

Battery Energy Storage Resource Information

See Section 7.2 for instructions to obtain any of the documents identified below:

1. Bidder must populate the data required in the Company's "Battery Energy Storage Design Criteria Data Sheet" spreadsheet if providing an alternate Proposal for a co-located battery energy storage system.

Appendix K

Projected Land Lease / Decommissioning Costs / Property Taxes

See Section 7.2 for instructions to obtain any of the documents identified below:

Bidder must populate the data required in the Company's "Project Land Decom Property Taxes" spreadsheet. Information provided shall include:

a. Expected Land Lease Costs by year for at least a 35-year period for Wind and Solar Projects, and a 25-year period for Standalone BESS. Projects must report all land obligations (e.g., options to lease or purchase land, royalties, easement payments, etc.) to ensure APCo has a full understanding of the all-in costs to support the land rights needed for the Project. Any leases that include revenue-based royalty structures will need to be amended prior to closing any PSA transaction. Land Lease Costs will be used in the Company's Economic Analysis (Section 9.2.1).

b. Estimated decommissioning costs including typical costs to remove the facility and restore the site, any bond release or other end-of-life payment obligations, and any expected salvage value. In addition, Bidder shall provide any completed decommissioning studies.

c. Expected Property Taxes, including any abatements or payments in lieu of taxes (PILOTS). In addition, Bidder shall provide a written description of the current status of efforts to secure abatements or PILOTs being sought, details about any local or state abatement programs available and restrictions on such programs, and how such figures were determined and calculated.

Appendix L

Project Technical Due Diligence Material

Bidders must provide the following basic technical due diligence material to allow the Company to perform an initial technical due diligence of the Project.

1. Preliminary Site Layout: Provide a diagram or map identifying the Project boundary with anticipated placement of major equipment and other project facilities, including project gen-tie line, point of interconnection, and project access roads.

2. Preliminary Electrical One Line: Provide a preliminary substation and collector system electrical one-line diagram of the Project.

3. NERC Compliance Description: If the proposed Project site and equipment is defined as an Element of the Bulk Electric System, provide a description or plan for compliance to the applicable standards (if one is available prior to the Proposal Due Date).

4. Quality Control Plan: Provide a description or a quality control plan from a recent project for major equipment supplier surveillance (i.e., fabrication inspections and testing) and solar facility construction (i.e., inspections and testing).

5. Proposed Relay Protection Scheme: Provide a description or a relay protection one-line diagram of the project substation relay protection schemes including gen-tie to the point of interconnect (if one is available prior to the Proposal Due Date).

6. SCADA Network One Line: Provide a description or a block diagram of the SCADA and communication network configuration and a description of cyber security features.

7. Main Power Transformer: Provide a description and the manufacturer of the main power transformer included in the Proposal.

8. Geotechnical Reports: Provide copies of all completed geotechnical reports and accompanying data and attachments (if available prior to the Proposal Due Date).

9. Construction Milestone Estimates: Bidder must populate the estimated construction milestone dates in the applicable "Construction Milestones" spreadsheet.

Appendix M

Local Goods & Services

Describe how the Bidder will be using local goods or services sourced whole or in part from one or more Virginia or West Virginia businesses, as applicable, to the extent practical in the purchase of equipment and material, or services for the Project.

Use of Small & Diverse Suppliers

Describe Bidder's plan to use small and diverse suppliers as subcontractors for work (https://www.aep.com/b2b/suppliers).

Environmental Justice

Provide a description of environmental justice factors by the Environmental Justice Act (Virginia Code §§ 2.2-234, *et. seq.*) that are relevant to the Project. If an Environmental Justice or Fenceline community is potentially affected by the Project, list the steps taken by the Project regarding the Commonwealth of Virginia's environmental justice policy. In addition, complete and include an EPA EJScreen Report using the EJScreen Tool (https://www.epa.gov/ejscreen), or if the project is located in Virginia, refer to the Virginia Environmental Data Hub (https://geohub-vadeq.hub.arcgis.com).

Appendix N

Bid Price Breakdown

See Section 7.2 for instructions to obtain any of the documents identified below:

Bid Price Breakdown: A Bid Price Breakdown spreadsheet shall be provided by the Bidder for both Completed Projects and Development Stage Projects. The Bid Price Breakdown spreadsheet is a good faith estimate which will include, but is not limited to, all estimated direct costs to further develop, permit, engineer, procure equipment, construct, startup and commission the facility.

Bidder must populate the data required in the Company's "BidPriceBreakdown_2024" spreadsheet.

Appendix O

Permitting Plan

See Section 7.2 for instructions to obtain any of the documents identified below:

Permitting Plan: Attach a comprehensive permit matrix that lists and describes all required permits, including, but not limited to, Federal (USFWS, FAA), State, County, City, etc., using the Company's "PermittingPlan_2024" spreadsheet. For each permit, include the status, duration, planned steps, any known mitigation requirements, critical milestones and timelines.

Appendix P

Development Stage Projects Additional Proposal Content

Bidders submitting a Development Stage Project Proposal shall include the following:

- Detailed list identifying critical risks associated with the Development Stage Project and strategy to avoid or mitigate each risk.
- High level execution plan and roadmap outlining how to complete activities, required inputs, contacts and general sequence of events required to complete or perform development work (i.e., work outside of engineering, design, procurement, construction, and commissioning).
- Major equipment available to be furnished by Bidder as part of Development Stage Project.
- Detailed list of in-progress or completed contracts that the Company can take on (and complete, as necessary) or relationships that can be leveraged to obtain materials, services, and equipment such as main power transformer, inverters, modules, racking and tracking.

Appendix Q

Optional Development Services Agreement

Optional Development Services Agreement: Bidder may provide a proposal for a Development Services Agreement to complete development (e.g., permitting, land title perfection, interconnection studies, etc.), of the proposed Development Stage Project for ownership transfer as highlighted in Section 4.1.1. For avoidance of doubt, APCo will consider Proposals for sale of Development Stage Projects with and without a proposed Development Services Agreement. Interested Bidders are requested to provide a term sheet or draft form of Development Services Agreement with their Proposal.

Appendix R

Operational Projects Additional Proposal Content

Bidders of Operational Projects must provide the following information. If the information pertains to operational data, provide the previous five years (or less if the commercial operation date was more recent):

- Commercial operation date
- Production data (8760) and availability as well as downtime issues and outlook
- Forced Outage and unit trip information, including root cause
- Congestion and curtailment
- Environmental issues and violations
- Safety issues
- NERC violations and resolution
- Major scheduled and unscheduled maintenance matters as well as resolution
- Community relations and external affairs issues
- Detailed annual operations budgets, including forecasted versus actual budgets
- Environmental and permitting summary
- List and description of any outstanding legal matters
- Facility Site Plan and General Arrangement
- List of all warranties
- Staffing
- Summary of material contracts (including, but not limited to, PJM interconnection agreement, operations and maintenance agreements, site control documents, etc.) and confirmation that the project is in compliance with all such contracts
- Confirmation of whether the project holds firm transmission service
- Property tax abatements and/or payments in lieu of taxes
- Description of the tax qualification strategy used to secure Federal Tax Credits for the project

American Electric Power Service Corporation
as agent for
Appalachian Power Company

Request for Proposals
Power Purchase Agreements (PPAs)

from Qualified Bidders

Totaling up to 300 MW of nameplate rated
Solar Energy Resources (5 MWac minimum)
and / or
Wind Energy Resources (50 MW minimum)

RFP Issued: May 13, 2024

Proposals Due: July 30, 2024

Web Address: https://www.appalachianpower.com/rfp

APPALACHIAN POWER
An AEP Company

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1. Background

1.1. Appalachian Power Company (APCo, Appalachian Power, or Company) is pursuing additional renewable resources via three Requests for Proposals (RFPs), as described in Table 1 below.

TABLE 1

RFP	Solicitation Details
PSA	Wind, solar and/or co-located or standalone battery energy storage systems RFP for up to 800 MW via one or more purchase and sale agreements (PSAs) for purchase of 100% equity interest in a project company will be issued simultaneously.
PPA	**Wind and solar RFP for up to 300 MW of energy, capacity, and environmental attributes (including renewable energy certificates) via one or more power purchase agreements (PPA).**
REC	RFP for renewable energy certificates (RECs) that qualify under Virginia's RPS will be issued simultaneously.

This RFP is associated with the PPA RFP only.

2. Introduction

2.1. American Electric Power Service Corporation (AEPSC) and Appalachian Power Company are subsidiaries of American Electric Power Company, Inc. (AEP). AEPSC is administering this RFP on behalf of APCo. Affiliates of AEP and APCo (Affiliate) are not permitted to participate in this RFP.

Appalachian Power serves about 1 million customers in West Virginia, Virginia and Tennessee. APCo's headquarters is in Charleston, W.Va., with additional regulatory and external affairs offices in Roanoke and Richmond, Va.

Based in Columbus, Ohio, AEP is powering a cleaner, brighter energy future for its customers and communities. The company's nearly 17,000 employees operate and maintain more than 40,000 miles of transmission lines, the nation's largest electric transmission system, and more than 225,000 miles of distribution lines to deliver power to 5.6 million customers in 11 states. AEP also is one of the nation's largest electricity producers with approximately 29,000 megawatts of diverse generating capacity, including nearly 6,000 megawatts of renewable energy. The company is investing $43 billion over the next five years to make the electric grid cleaner and more reliable. AEP is on track to reach an 80% reduction in carbon dioxide emissions from 2005 levels by 2030 and have a goal to achieve net zero by 2045.

AEP is recognized consistently for its focus on sustainability, community engagement, and diversity, equity and inclusion. AEP's family of companies includes utilities AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public

Service Company of Oklahoma, and Southwestern Electric Power Company (in Arkansas, Louisiana, east Texas and the Texas Panhandle). AEP also owns AEP Energy, which provides innovative competitive energy solutions nationwide. For more information, visit aep.com.

APCo Service Territory



3. RFP Overview

3.1. APCo has issued this RFP to support its requirement to provide its customers with carbon-free generation, consistent with the requirements of the Virginia Clean Economy Act (VCEA) for a Phase I utility. APCo is required to meet annual targets that reach 100% by 2050. APCo intends to meet its obligations through a portfolio of projects utilizing different ownership models. This RFP is for Power Purchase Agreements (PPAs) with facilities meeting the definition of a Renewable Portfolio Standard (RPS) eligible source contained in Section 56-585.5.A of the Virginia Code (Eligible Renewable Resources) that are physically located in the PJM Interconnection, LLC Region (e.g., interconnected to the PJM Transmission system) or interconnected to APCo's distribution electrical system (APCo System).

3.2. APCo is requesting Proposals of up to 300 MW of nameplate rated Solar and/or Wind Energy Resources (Solar Project, Wind Project, Project). Depending on the results of the RFP, the Company may pursue additional resources beyond 300 MW. The minimum nameplate rated bid size for this RFP is 5 MWac for Solar Projects and 50 MW for Wind Projects.

3.3. This RFP seeks PPAs for purchase of Renewable Energy Products (Energy, Capacity, and Environmental Attributes (including Renewable Energy Certificates)) from the Solar and/or Wind Energy Resources. APCo will not consider proposals in this RFP that do not meet these criteria. Proposals for PSA and REC only products should be

submitted separately into the Company's PSA and REC RFPs (see Section 1).

3.4. Affiliates of AEP and APCo may not participate in this RFP.

3.5. APCo may execute one or more Solar and/or Wind Project PPAs as a result of this RFP.

3.6. Any Project(s) with which APCo moves forward as a result of this RFP will be subject to APCo's receipt of the necessary regulatory approvals, including but not limited to, a prudency determination from the Virginia State Corporation Commission consistent with §56.585.1:4.H of the Code of Virginia and Commission precedent.

3.7. All questions regarding this RFP should be emailed to: APCo2024RFP@aep.com

APCo will post a list of the non-confidential "Questions and Answers" on its RFP website https://www.appalachianpower.com/rfp on a weekly basis following the issuance of the RFP until the Proposal Due Date.

3.8. This RFP is not a commitment by the Company to acquire any Project and it does not bind the Company or its Affiliates in any manner. The Company in its sole discretion will determine which Bidders, if any, it wishes to engage in negotiations with that may lead to PPAs with one or more selected Projects.

4. Product Description and Requirements

4.1. Product: The Company is seeking to purchase the Renewable Energy Products from a low-cost Project to deliver energy into PJM (PJM Interconnection L.L.C.) or the APCo System via a PPA. Renewable Energy Products shall include:

- 4.1.1. Energy
- 4.1.2. Capacity
- 4.1.3. Environmental Attributes (including RECs)
- 4.1.4. Ancillary Services (if available)

4.2. Expected Commercial Operation Date (COD): The Company is pursuing Projects that can achieve an Expected COD by 12/31/2028.

4.3. Term: The Term of the PPA shall be 20-years or 30-years. In addition to a 20-year or 30-year Term, Bidder may offer alternate Term proposals.

4.4. Option to Purchase: Proposals may include an option for APCo to purchase the Project at fair market value at the end of the PPA Term.

4.5. Delivery Period: The Delivery Period shall commence by January 1, 2029, and continue for the length of the Term.

4.6. Size: This PPA RFP is seeking up to 300 MWac nameplate rated Solar and/or Wind generation resources. The minimum acceptable Project size is 5 MWac for Solar Projects and 50 MWac for Wind Projects.

4.7. Location: Projects must be physically located in the PJM Interconnection, LLC Region (e.g., interconnected to the PJM Transmission system) or interconnected to the APCo System. The interconnection point with the PJM transmission system or the APCo System will be the Point of Delivery.

4.8. Local Goods & Services: APCo encourages the use of local goods or services sourced, in whole or in part, from one or more Virginia or West Virginia businesses in the construction and/or operation of the Project. The bidder should identify these Virginia or West Virginia resources in its proposal.

4.9. Environmental Justice: The project shall not adversely impact any goal established by the Virginia Environmental Justice Act (Va. Code §§ 2.2-234, et. seq.).

4.10. Project Development:

4.10.1. Bidder must have established substantial site control of the proposed Project. Site control must be in the form of direct ownership, land lease, land lease option or easement. A letter of intent will not be an acceptable form of demonstrated site control.

4.10.2. Construction Labor: APCo prefers that Bidders use union labor with an affiliation to the Building and Construction Trade Unions for the site preparation and construction of the Project. Proposals for non-union labor will be accepted.

4.10.3. Bidder shall use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work.

4.11. Interconnection:

4.11.1. Projects must be interconnected to PJM and have a completed PJM System Impact Study. A copy of the study mist be included with the Bidder's Proposal.
OR

4.11.2. Projects must be interconnected to the APCo System and must have a completed Distribution Impact Study from the APCo Distribution Planning Group prior to the Proposal Due Date. In addition, the application for the Distribution Impact Study shall have a utility date and time- stamp no later than April 1, 2024, as detailed in Virginia's Administrative Code Section 20VAC5-314-50-A. More information can be found via the following link:

Chapter 314 - Regulations Governing Interconnection of Small Electrical Generators and Storage

4.11.3. If Bidder is pursuing interconnection to the APCo System only, Bidder must provide documentation that it is not required by the PJM Rules to interconnect with PJM due to backfeed into PJM or as otherwise required by PJM.

4.11.4. Bidders are responsible for following the established policies and procedures that are in effect regarding facility interconnection and operation with the interconnecting utility and PJM.

4.11.5. The Bidder is responsible for all costs associated with transmission

interconnections and system upgrades as required by the interconnecting utility and PJM.

5. Bid Price and Structure

5.1. The Bid Price must be for a bundled Renewable Energy Product as described in Section 4.1.

5.2. The Bid Price shall be on an "as-available" per MWh basis with no separate capacity payment.

5.3. All-in Price. Pricing must include all capital costs, fixed and variable O&M costs, taxes and any other costs associated with delivering the full contracted energy output of the facility to the bid-specified Point of Delivery.

5.4. Bid Price must be an "all-in" around-the-clock Price ($/MWh) for the entire term of the agreement commencing by January 1, 2029.

5.5. The Bid Price must be a fixed, non-escalated price for the term of the PPA.

5.6. Proposals must include a Bid Price for a 20-year or 30-year Term. Additionally, Bidders may include proposals with alternate Terms.

5.7. Proposals may include an option for the Company to purchase the Project at fair market value at the end of the Term.

5.8. The Company will pay for Renewable Energy Products prior to the Delivery Period (Section 4.5) at the Real-Time Locational Marginal Price ($/MWh) at the Point of Delivery less any associated PJM charges.

5.9. All costs associated with distribution and/or transmission interconnection (as applicable) and interconnection facilities required for the Project, including any system upgrades, as required by PJM up to the Point of Delivery, shall be included in the Bidder's pricing where appropriate under current FERC orders and rulings.

5.10. The Bid Price shall include any costs associated with meeting the credit requirements stated in the Form PPA Agreement.

5.11. Associated Attributes - For purposes of this solicitation, the sale of Renewable Energy Products to APCo under the long term PPA includes the transfer of all capacity, ancillary services (if any), and environmental attributes including associated renewable energy certificates (RECs) and any other current or future environmental attributes, including any greenhouse gas emission reductions associated with the quantity contracted from the facility from the project for the term of the PPA.

5.12. Prices must be firm, representing best and final bid. Proposals and bid pricing must be

valid for at least 150 days after the Proposal Due Date.

6. RFP Schedule

The schedule and deadlines set out in this section apply to this RFP. APCo reserves the right to revise this schedule at any time and at its sole discretion.

RFP Issued	05/13/24
Proposal Due Date	07/30/24 (3 p.m. EST)
Final Project Selection	10/11/24
Contract Execution	By 04/25/25
Submit Petition to State Regulatory Commissions for Approval	Within 90 Days of Contract Execution
Receipt of Regulatory Approval Order(s)	~4 to 7 Months After Submission to Commissions for Approval
Notice to Proceed (NTP)	By 01/09/26
Commercial Operation	By 12/31/28

7. Proposal Submission

7.1. Bidders will be required to sign a Confidentiality Agreement (CA) prior to receiving detailed instructions on how to access the following documents and submit Proposals:

- Form PPA (Appendix E)
- EnergyInputSheet_2024.xls (Appendix G)

7.2. Bidder should request APCo's Form CA by emailing (APCo2024RFP@aep.com) and including the following documentation:

- Supporting documentation of Bidder's experience in developing, engineering, procuring equipment, construction, and commissioning similar wind or solar powered electric generation facilities in the United States or Canada of a size comparable to that of the Bidder's Project and/or otherwise have demonstrated appropriate experience.
- Verification of Site Control as required by Section 4.10.1.
- Completed PJM System Impact Study as required by Section 4.11.1 or has an existing APCo distribution interconnection application (submitted no later than April 1, 2024) with the APCo Distribution Planning Group as required by Section 4.11.2.

7.3. Proposals must be complete in all material respects and shall be submitted electronically no later than 3 p.m. EST on the Proposal Due Date via a Box site. Detailed instructions on how to submit Proposals will be provided upon signing a CA.

7.4. The Company reserves the right to solicit additional proposals, if it deems necessary to do so, and the right to submit additional information requests to Bidders during the Proposal evaluation process.

7.5. Proposals and bid pricing must be valid for at least 150 days after the Proposal Due Date at which time Proposals shall expire unless the Bidder has been notified that its Proposal has been included in the Final Project Selection.

7.6. A Proposal should be as comprehensive as possible to enable the Company to make a definitive and final evaluation of the Proposal's benefits to its customers without further contact with the Bidder.

8. Proposal Content

Bidders are encouraged to provide as much information as possible to aid in the evaluation of the Proposal. The Bidder should also provide any additional information the Bidder deems necessary or useful to the Company in making a definitive and final evaluation of the benefits of the Bidder's proposal without further interaction between the Company and the Bidder.

Bidders must submit the following information for each Proposal. All electronic versions of the Appendices shall be uploaded to the designated folders in the Box site.

8.1. A completed Proposal Content Check Sheet (Appendix A).

8.2. An executive summary of the Project's characteristics and timeline, including any unique aspects and benefits.

8.3. A completed Project Summary (Appendix B) for Solar and/or Wind Projects, including the electronic Project Summary Form (link to form in the Box site), with the following attachments:

- PTC/ITC Strategy: Summary of how the Project will qualify for Federal Tax Credits (i.e., Production Tax Credits (PTC) or Investment Tax Credits (ITC)).
- Interconnection Studies: Include a copy of all completed interconnection studies (i.e., System Impact Study, Distribution Impact Study, Facilities Study, etc.)
- Site Layout: Include a diagram or map identifying the Project boundary with anticipated placement of major equipment and other project facilities, including transmission layouts and point of interconnection.
- Site Control Documents: Include a copy of all leases, easements or other ownership documentation including to the point of interconnection (Section 4.10.1).
- Permit Matrix: Attach a comprehensive permit matrix and status of all required permits, including, but not limited to, Federal (USFWS, FAA), State, County, City, etc.
- Environmental Report Summary: Attach a summary of all environmental studies, reports and agency meetings associated with the Project.
- Bidder's Experience: Bidder must provide documentation showing they (i) have substantial experience in operating and maintaining similar wind or solar (as

applicable) powered electric generation facilities in the United States or Canada within the jurisdiction of NERC of a size comparable to that of the Bidder's Project, and (ii) meet all applicable requirements under applicable law for operating and maintaining the wind or solar (as applicable) farms, including the requirements of an RTO / ISO. A Person will be deemed to have such substantial experience if it is a Person that has at least five (5) years of experience in operating and maintaining similar wind or solar powered electric generation facilities in the United States or Canada within the jurisdiction of NERC of a size comparable to that of the Bidder's Project.

8.4. A completed Proposal Bid Pricing (Appendix C).

8.5. A completed Bidder's Credit-Related Information and Bidder Profile (Appendix D), which shall include:

- The identity of all persons and entities that have a direct or indirect ownership interest in the Project.
- Copies of the Annual Reports for the three most recent fiscal years and quarterly reports for the most recent quarter ended, if available.
- At least three third-party references.

8.6. Provide (i) an affirmative statement that Bidder's taking no exception to the Form of Power Purchase Agreement provided pursuant to this RFP or (ii) a comprehensive list of exceptions to the terms and conditions contained in the applicable Form PPA (Appendix E).

8.7. Bidder shall submit a Financing Plan on a separate form. Bidders must provide a proposed financing plan, including any letters of support, previous correspondence with banks and/or lenders intending to provide financing for the project. Also provide the proposed on-going debt-equity ratio to be carried by the project during construction and operation (Appendix F).

8.8. A completed Production Profile (Appendix G).

8.9. A completed Appendix H, which must include:

- Use of Local Goods & Services: Plan for use of local goods or services sourced, in whole or in part, from one or more Virginia or West Virginia businesses in the construction and/or operation of the Project. The bidder should identify these Virginia or West Virginia resources in its Proposal. (Section 4.8)
- Use of Small and Diverse Suppliers: Plan to use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work (Section 4.10.3)
- Environmental Justice: A description of environmental justice factors by the Environmental Justice Act (Virginia Code §§ 2.2-234, et. seq.) that are relevant

to the Project. If an Environmental Justice or Fenceline community is potentially affected by the Project, list the steps taken by the Project regarding the Commonwealth of Virginia's environmental justice policy.

9. Proposal Evaluation

Proposals must include all applicable content requirements as described in Section 8. APCo will consider bids that are reliable, feasible and represent the reasonable cost means of satisfying the requirements of this RFP. The Evaluation Process, which includes three main phases, is central to the success of APCo's RFP process.

Section 9.1: Eligibility and Threshold Requirements
Section 9.2: Detailed Analysis
Section 9.3: Final Project Selection

9.1. Eligibility and Threshold Requirements: A preliminary screening of each Proposal will be undertaken by the Company to determine if the Proposal is eligible to proceed to the Detailed Analysis phase. Bidders and their associated Proposals must satisfy the following Eligibility and Threshold Requirements:

9.1.1. Proposal must be for a Power Purchase Agreement and include the Renewable Energy Products from a solar or wind energy resource (Section 4.1).

9.1.2. Projects must have an expected COD by 12/31/2028 (Section 4.2).

9.1.3. Solar Projects must have a minimum nameplate rating of 5 MWac and Wind Projects must have a minimum nameplate rating of 50 MW (Section 4.6).

9.1.4. Projects must be physically located in the PJM Region (e.g., interconnected to the PJM Transmission system) or interconnected to the APCo System. (Section 4.7).

9.1.5. Bidder must have established substantial Site Control (Section 4.10.1).

9.1.6. Bidder must have 1) a completed PJM System Impact Study (Section 4.11.1) which remains active in the PJM queue, or 2) a completed APCo Distribution Impact Study prior to the Proposal Due Date and the application for the Distribution Impact Study had been submitted no later than April 1, 2024 (Section 4.11.2).

9.1.7. Bidder must provide a Bid Price (non-escalated) ($/MWh) (Section 5.5).

9.1.8. Bidder must provide a Bid Price for a 20-year or 30-year Term (Section 5.6).

9.1.9. Bidder is required to include requested financial information (Appendix D) so that the Company can conduct a financial wherewithal assessment. The Proposal price shall include any costs associated with meeting the PPA credit

requirements (Section 5.10).

9.1.10. Bidder shall have completed the development, engineering, equipment procurement and construction of a similar wind or solar project within the United States or Canada of a size comparable to that of the Bidder's Project and have demonstrated appropriate operating experience (Section 8.3).

9.1.11. Bidder's exceptions to the Form PPA, considered individually or in the aggregate, are minimally acceptable to the Company as a basis for further discussions (Section 8.6).

9.1.12. Bidder must address Environmental Justice requirements (Section 8.9).

9.2. Detailed Analysis: Proposals meeting the Eligibility and Threshold Requirements in Section 9.1 will move to the Detailed Analysis phase, which is comprised of the Economic Analysis and the Non-Price Factor Analysis set forth below.

9.2.1. Economic Analysis: The Economic Analysis will include the calculation of the following financial metrics, which will provide multiple perspectives on cost and value:

- Levelized Adjusted Net Cost of Energy (LANCOE), and
- Value to Cost (V/C) Ratio.

LANCOE will be the primary ranking of projects. V/C Ratio will be the primary ranking metric for comparing across generation of different types. Additional details of the financial metrics are as follows with supporting definitions below:

$$\text{LANCOE (\$/MWh)} = \frac{\text{Total Cost (\$)} - \text{Total Value (\$)}}{\text{Present Value of Projected Energy Production (MWh)}}$$

$$\text{V/C Ratio} = \frac{\text{Total Value}}{\text{Total Cost}}$$

Total Cost: The Company will determine the present value of the costs of each qualifying Proposal. Total Costs will be evaluated based on the PPA contract's demand charges, energy charges, and any other applicable charges. Other costs may be included based on the Company's discretion to appropriately evaluate each Proposal to ensure the Company is comparing all qualifying Proposals on an equivalent basis.

Total Value: The Company will determine the present value of all the value streams of each qualifying Proposal. The value streams include the expected PJM revenues for the Proposal's energy and ancillary services, the expected value of renewable energy certificates (RECs), and capacity value. Additionally, other value streams and financial metrics may be included based on the Company's discretion to appropriately evaluate each Proposal

to ensure the Company is comparing all qualifying Proposals on an equivalent basis.

Transmission and Congestion Costs: Transmission and Congestion Costs will be determined by the Company's transmission screening analysis. The transmission screening analysis will evaluate (i) transmission facilities cost and the network upgrade cost allocated to the Proposal, (ii) expected cost of transmission congestion and losses to the APCo load zone and (iii) cost of deliverability and curtailment risk mitigation that the Company calculates to ensure that the resources can be designated as firm resources to meet Company's capacity obligations. Transmission and Congestion Costs will be included in Total Cost calculations.

9.2.2. Non-Price Factor Analysis: The Non-Price Factor Analysis will be comprised of the following:

9.2.2.1. Project's (including associated transmission and interconnection facilities) impact on wildlife, the environment and other natural and cultural resources.

9.2.2.2. Bidder's ability to meet contractual credit requirements through the review of recent financial statements, ability to post collateral and raise capital, and any other relevant financial information including current credit ratings will also be assessed.

9.2.2.3. Bidder's experience in developing similar projects as included in the Proposal as well as Bidder's operating history of similar generation facilities.

9.2.2.4. Status of interconnection process with PJM or APCo distribution, as applicable.

9.2.2.5. Development status of the Project, including, but not limited to, site control and permitting.

9.2.2.6. Bidder's exceptions to the Form PPA. The Company will review the exceptions the Bidder proposed to the Company's form agreement with a focus on risks or additional costs to the Company. Prior agreement by AEP in previous negotiations does not constitute acceptance of an exception.

9.2.2.7. Project's (including associated transmission and interconnection facilities) impact on Environmental Justice and Fenceline communities.

9.2.2.8. Community relations and economic development considerations, including Bidder's plan to use small and diverse suppliers as subcontractors.

9.3. Final Project Selection: APCo will consider bids that are reliable, feasible and represent a reasonable cost means of satisfying the requirements of this RFP. Based on the results of the Detailed Analysis described above, the Company will determine which Projects will be included in the Final Project Selection. The Company will notify Bidders whether or not their Proposal has been selected and negotiation of definitive agreements will commence with Bidders whose Proposals have been selected.

10. Reservation of Rights

A Proposal will be deemed accepted only when the Company and the successful Bidder have executed definitive agreements for the Company's purchase of Renewable Energy Products from the Project. The Company has no obligation to accept any Proposal, whether the stated price in such Proposal is the lowest price offered. The Company may reject any Proposal in its sole discretion and without any obligation to disclose the reason or reasons for rejection.

By participating in the RFP process, each Bidder agrees that any and all information furnished by or on behalf of the Company in connection with the RFP is provided without any representation or warranty, express or implied, as to the usefulness, accuracy, or completeness of such information, and neither the Company nor its Affiliates nor any of their personnel or representatives shall have any liability to any bidder or its personnel or representatives relating to or arising from the use of or reliance upon any such information or any errors or omissions therein.

The Company reserves the right to modify or withdraw this RFP, to negotiate with any and all qualified Bidders to resolve any and all technical or contractual issues, or to reject any or all Proposals and to terminate negotiations with any Bidder at any time in its sole discretion. The Company reserves the right, at any time and from time to time, without prior notice and without specifying any reason and, in its sole discretion, to (a) cancel, modify or withdraw this RFP, reject any and all Proposals, and terminate negotiations at any time during the RFP process; (b) discuss with a Bidder and its advisors the terms of any Proposal and obtain clarification from the Bidder and its advisors concerning the Proposal; (c) consider all Proposals to be the property of the Company, subject to the provisions of this RFP relating to confidentiality and any confidentiality agreement executed in connection with this RFP, and destroy or archive any information or materials developed by or submitted to the Company in this RFP; (d) request from a Bidder information that is not explicitly detailed in this RFP, but which may be useful for evaluation of that Bidder's Proposal; (e) determine which Proposals to accept, favor, pursue or reject; (f) reject any Proposals that are not complete or contain irregularities, or waive irregularities in any Proposal that is submitted; (g) accept Proposals that do not provide the lowest evaluated cost; (h) determine which Bidders are allowed to participate in the RFP, including disqualifying a Bidder due to a change in the qualifications of the Bidder or in the event that the Company determines that the Bidder's participation in the RFP has failed to conform to the requirements of the RFP; (i) conduct negotiations with any or all Bidders or other persons or with no Bidders or other persons; (j) execute one or more definitive agreements with any Bidder, and (k) utilize a Bidder's completed Appendices and any supplemental information submitted by the Bidder in any its regulatory filings.

11. Confidentiality

APCo will take reasonable precautions and use reasonable efforts to maintain the confidentiality of all bids submitted. Bidders should clearly identify each page of information considered to be confidential or proprietary. APCo reserves the right to release any proposals to agents or consultants for purposes of proposal evaluation. APCo's disclosure policies and standards will automatically bind such agents or consultants. Regardless of the confidentiality, all such information may be subject to review by or in proceedings before the appropriate state authority, or any other governmental authority or judicial body with jurisdiction relating to these matters and may be subject to legal discovery. Under such circumstances, APCo and AEPSC will make reasonable efforts to protect Bidder's confidential information.

12. Bidder's Responsibilities

12.1. It is the Bidder's responsibility to submit all requested material by the deadlines specified in this RFP.

12.2. The Bidder should make its proposal as complete and comprehensive as possible so that APCo may make a definitive and final evaluation of the proposal's benefits to its customers without further contact with the Bidder.

12.3. Bidders are responsible for the timely completion of the project and are required to submit proof of their financial and technical wherewithal to ensure the successful completion of the project.

12.4. The Bidder will be responsible for any expenses Bidder incurs in connection with the preparation and submission of a Proposal and/or any subsequent negotiations regarding a Proposal in response this RFP. APCo will not reimburse Bidders for their expenses under any circumstances, regardless of whether the RFP process proceeds to a successful conclusion or is abandoned by APCo at its sole discretion.

13. Contacts

General RFP Questions: All correspondence and questions regarding this RFP, with the exception of interconnection-related questions, should be directed to:

APCo2024RFP@aep.com

PJM Interconnection: All correspondence and questions regarding the PJM Interconnection process can be found at:

PJM Interconnection

APCo Distribution Interconnection: All correspondence and questions regarding interconnection to the APCo System should be directed to:

APCoDGCoordinator@aep.com

Appendix A

Proposal Content Check Sheet

Section	Item	Completed
8.2	Executive Summary	
8.3	Appendix B (Project Summary)	
	- Completed Electronic Project Summary Form (link in Box Site)	
	- Company & General Project Information	
	- Solar and/or Wind Project Information	
	- Interconnection (PJM or APCo Distribution)	
	- Site Information	
	- Permits	
	- Preliminary Site Questions	
	Attachments Required:	
	- PTC/ITC Strategy	
	- Interconnection Studies	
	- Site Layout	
	- Site Control Documents	
	- Permit Matrix	
	- Environmental Report Summary	
	- Bidder Projects Completed	
8.4	Appendix C (Proposal Bid Pricing)	
8.5	Appendix D (Bidder's Credit Related-Information & Bidder's Profile)	
8.6	Appendix E (Form Power Purchase Agreement)	
8.7	Appendix F (Financing Plan)	
8.8	Appendix G (Production Profile)	
8.9	Appendix H (Local Goods & Services / Small & Diverse Suppliers / EJ	

Appendix B

Project Summary

Company Information

Bidder (Company):		
Contact Name:		
Contact Title:		
Address:		
City:	State:	Zip Code:
Work Phone:	Cell Phone:	
Email Address:		
Is the Proposal being submitted through a partnership, joint venture, consortium, or other association (Y/N)?		
If so, please identify all partners, joint ventures, members, or other entities or persons comprising same:		

General Project Information

Project Name:		
Project site located (County, State):		
Indicate if Project will qualify for the Federal PTC or ITC and applicable percentage (%):		
Indicate if Project will comply with Prevailing Wage and Apprenticeship Requirements (PWAR) (Y/N):		
Interconnection Path (select all that apply)	APCo (Y/N):	PJM (Y/N):
Expected Commercial Operation Date:		
Indicate if Project has substantial site control including to Point of Interconnection (Y/N):		

Solar Project Information (if applicable)

Module Manufacturer / Model:	Annual Degradation (%):
Configuration (Fixed Tilt / Single Axis):	Design Life (Yrs.):
Inverter Manufacturer / Model:	Expected Annual Availability (%):
Solar Project Nameplate (MWac): Solar Project Nameplate (MWdc):	
Expected Annual Energy (MWh):	Capacity Factor (%):
Appendix G 8760 Total (MWh): *(Value MUST match Expected Annual Energy above)*	

Wind Project Information (if applicable)

Wind Turbine Manufacturer:	Model:
Wind Project Size (MW):	Design Life (Yrs.):
Independent Wind Resource Study Included (Y/N):	Source of Independent Wind Resource Study:
Year 1 Expected Annual Energy (MWh)[1]:	Year 1 Capacity Factor (%)[1]:
Expected Annual Energy (MWh)[2]:	Capacity Factor (%)[2]:
	Expected Annual Availability (%):
Appendix G 8760 Total (MWh): *(Value MUST match Expected Annual Energy above)*	
Note 1: Year 1 production data is required to account for potential lower Year 1 production due to routine maintenance associated with the break-in period. *Note 2: Expected Annual Energy (MWh) represents a typical year's production following Year 1.*	

Interconnection – PJM (if applicable)

PJM Queue #:	Substation Name / Voltage:
Transmission Provider:	
Point of Interconnection with:	
Feasibility Study Complete (Y/N):	Feasibility Study Report Date:
System Impact Study Complete (Y/N):	System Impact Study Report Date:
Facilities Study Complete (Y/N):	Anticipated Facilities Study Completion Date:
PJM Interconnection Status (describe):	

Interconnection - APCo Distribution (if applicable)

Application #:	Substation Name / Voltage:
Distribution Impact Study Complete (Y/N):	Distribution Impact Study Report Date:
Interconnection Cost Estimate:	
APCo Distribution Interconnection Status (describe):	

Site Information

Site Legal Description:		
Address:		
City:	State:	Zip Code:
County:	Latitude:	Longitude:
Site Control (lease, easement, own, site purchase pending, etc.):		
Site Acres Required:	Site Acres Secured:	
	Site Acres Secured (as % of Req.):	
Is there potential for expansion (Y / N):	If Yes, acres available:	

Permits

Have you contacted all required permitting agencies regarding this project and identified all necessary permits?
City (Y/N):
County (Y/N):
State (Y/N):
Federal (Y/N):
- USFWS (Y/N):
- Other (Y/N):
On an additional sheet, list and describe all city, county, state and federal permits required for this project. Include: status, duration, planned steps, critical milestones and timeline.

Preliminary Site Questions (Y/N)

Has the site been assessed for any environmental contamination? Describe any known environmental issues. If necessary, please describe on a separate attachment.	
Are there any Tribal Lands or Tribal mineral ownership rights within Project boundary or vicinity?	
Are there any Federally or State owned or controlled lands within Project boundary or vicinity?	
Is the Project located on currently or formally mined lands?	
Is the site adjacent or near an Environmental Justice or Fenceline community?	
Have any Federal or State wildlife resource agencies been consulted for the Project?	
Has The Nature Conservancy or any other non-governmental organizations been engaged?	
Are there Conservation Reserve Program, Wetland Reserve Program or other conservation easements within the Project boundary or vicinity?	
Are there any pollinator vegetation requirements associated with the Project?	

Attachments Required

PTC/ITC Strategy: Summary of how the Project will qualify for Federal Tax Credits (i.e., Production Tax Credits (PTC) or Investment Tax Credits (ITC)).
Interconnection Studies: Attach a copy of all completed interconnection studies (i.e., System Impact Study, Distribution Impact Study, Facilities Study, etc.).
Site Layout: Include a diagram or map identifying the Project boundary with anticipated placement of major equipment and other project facilities, including transmission layouts and point of interconnection.
Site Control Documents: Attach a copy of all leases, easements or other ownership documentation including to point of interconnect.
Permit Matrix: Attach a comprehensive permit matrix and status of all required permits, including, but not limited to, Federal (USFWS, FAA), State, County, City, etc.
Environmental Report Summary: Attach a summary of all environmental studies, reports and agency meetings associated with the Project. Summarize the following reports (including data summaries, results and findings) as applicable, which will be requested at a later time, including, but not limited to: • Tier I / II Site Characterization Report, Environmental Work / Survey Plan, Bat Acoustic Survey Report, Avian Use Survey Report, Raptor Nest Survey Report, Prey-base Survey Report, Wetland, Waters and Playa Survey / Assessment Report, Whooping Crane Habitat Assessment Report, Lesser Prairie Chicken Survey / Assessment Report, Phase I Environmental Site Assessment Report, Historical and Cultural Resource Survey / Assessment Report, All Other Species and Environmental Resource Survey and Study Reports, Record and Notes of all Federal or State Resource Agency Correspondence and Meetings, Turbine and Environmental Resource Shapefiles (.kmz format), and Bird and Bat Conservation Strategy and Eagle Conservation Plan (if available).

Bidder Projects Completed

Provide a summary of all wind projects (if bidding a wind project) or solar projects (if bidding a solar project) that Bidder has successfully developed and completed in the United States or Canada of a size comparable to that of the Bidder's Project. For each project, describe the Bidder's specific role in the project.

Project	Resource Type (Wind/Solar)	Location	MW	Commercial Operation Date	Bidder's Role

Appendix C

Proposal Bid Pricing[1]

Expected COD by	PPA Term[2]	Expected Annual Energy	Capacity Factor[3]	Bid Price, $/MWh
				$
Does Proposal pricing include an option for APCo to purchase Project at fair market value at the end of the Term?				(Y/N):
Does Bid Price include the use of union labor?				(Y/N):

Alternate Bid Pricing (Not Required)

Expected COD by	PPA Term	Expected Annual Energy	Capacity Factor[3]	Bid Price, $/MWh
				$
Does Proposal pricing include an option for APCo to purchase Project at fair market value at the end of the Term?				(Y/N):
Does Bid Price include the use of union labor?				(Y/N):
Expected COD by	**PPA Term**	**Expected Annual Energy**	**Capacity Factor[3]**	**Bid Price, $/MWh**
				$
Does Proposal pricing include an option for APCo to purchase Project at fair market value at the end of the Term?				(Y/N):
Does Bid Price include the use of union labor?				(Y/N):

Note 1: Optional size(s) provided cannot be contingent on Bidder selling the remaining portion of the Project to another party via a sale of a portion of the project company or a power purchase agreement.

Note 2: Proposal must include a Term of 20 or 30 years. In addition, alternate terms may be submitted.

Note 3: Capacity Factor should be based on MWac.

Appendix D

Bidder's Credit-Related Information

Full Legal Name of the Bidder:
Type of Organization (Corporation, Partnership, etc.):
Bidder's % Ownership in Proposed Project (as of proposal submittal date):
If Bidder's Ownership is <100%, identity of all persons and entities that have a direct or indirect ownership interest in the Project:
Full Legal Name(s) of Parent Corporation: 1. 2. 3.
Entity Providing Credit Support on Behalf of Bidder (if applicable): Name: Address: City: Zip Code:
Type of Relationship of Credit Support Provider:
Current Senior Unsecured Debt Rating (if unavailable, Issuer Rating): 1. S&P: 2. Moody's:
Bank References & Name of Institution:
Bank Contact: Name: Title: Address: City: Zip Code: Phone Number:
Legal Proceedings: As a separate attachment, please list all lawsuits, regulatory proceedings, or arbitration in which the Bidder or its affiliates or predecessors have been or are engaged that could affect the Bidder's performance of its bid. Identify the parties involved in such lawsuits, proceedings, or arbitration, and the final resolution or present status of such matters.
Financial Statements: Please provide copies of the Annual Reports for the three most recent fiscal years and quarterly reports for the most recent quarter ended, if available. If available electronically, please provide link.

Bidder's Profile

Please list Bidder's Affiliate companies:

1.
2.
3.
4.

Please list Bidder's references:

1. Company
   a. Contact Name:
   b. Contact Number:
   c. Project:

2. Company
   a. Contact Name:
   b. Contact Number:
   c. Project:

3. Company
   a. Contact Name:
   b. Contact Number:
   c. Project:

4. Company
   a. Contact Name:
   b. Contact Number:
   c. Project:

Appendix E

Form Power Purchase Agreement

See Section 7.1 for instructions to obtain the applicable Form Power Purchase Agreement.

Bidder shall provide (i) an affirmative statement that Bidder's taking no exception to the Form of Power Purchase Agreement provided pursuant to this RFP or (ii) a comprehensive list of exceptions to the terms and conditions contained in the applicable Form PPA.

Appendix F

Financing Plan

Bidder shall submit a Financing Plan on a separate form. Bidders must provide a proposed financing plan, including any letters of support, previous correspondence with banks / lenders intending to provide financing for the project. Also provide the proposed on-going debt-equity ratio to be carried by the project during construction and operation.

Appendix G

Production Profile

See Section 7.1 for instructions to obtain the form identified below:

Bidder must include an 8760 calendar year hourly energy forecast, net of all losses using the Company's form spreadsheet ("EnergyInputSheet_2024.xls").

Appendix H

Local Goods & Services

Describe how the Bidder will be using local goods or services sourced whole or in part from one or more Virginia or West Virginia businesses, as applicable, to the extent practical in the purchase of equipment and material, or services for the Project:

Use of Small & Diverse Suppliers

Describe plan to use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work (https://www.aep.com/b2b/suppliers):

Environmental Justice

Provide a description of environmental justice factors by the Environmental Justice Act (Virginia Code §§ 2.2-234, *et. seq.*) that are relevant to the Project. If an Environmental Justice or Fenceline community is potentially affected by the Project, list the steps taken by the Project regarding the Commonwealth of Virginia's environmental justice policy. In addition, complete and include an EPA EJScreen Report using the EJScreen Tool (https://www.epa.gov/ejscreen), or if the project is located in Virginia, refer to the Virginia Environmental Data Hub (https://geohub-vadeq.hub.arcgis.com).

American Electric Power Service Corporation
as agent for
Appalachian Power Company

Request for Proposals
for
Renewable Energy Certificates (RECs)

Eligible to qualify for Virginia's
Renewable Portfolio Standard (RPS)

RFP Issued: May 13, 2024

Proposals Due: July 30, 2024

Web Address: https://www.appalachianpower.com/rfp

APPALACHIAN POWER
An AEP Company

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Attachments

Bidder and Project Summary ..... Appendix A

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Bidder's Credit-Related Information and Bidder's Profile ..... Appendix C

Form REC Agreement ..... Appendix D

Local Goods & Services / Small & Diverse Suppliers / Environmental Justice ..... Appendix E

1. Background

1.1. Appalachian Power Company (APCo, Appalachian Power, or Company) is pursuing additional renewable resources via three Requests for Proposals (RFPs), as described in Table 1 below.

TABLE 1

RFP	Solicitation Details
PSA	Wind, solar and/or co-located or standalone battery energy storage systems RFP for up to 800 MW via one or more purchase and sale agreements (PSAs) for purchase of 100% equity interest in a project company will be issued simultaneously.
PPA	Wind and solar RFP for up to 300 MW of energy, capacity, and environmental attributes (including renewable energy certificates) via one or more power purchase agreements (PPA) will be issued simultaneously.
REC	**RFP for renewable energy certificates (RECs) that qualify under Virginia's RPS.**

This RFP is associated with the REC RFP only.

2. Introduction

2.1. American Electric Power Service Corporation (AEPSC) and Appalachian Power Company are subsidiaries of American Electric Power Company, Inc. (AEP). AEPSC is administering this RFP on behalf of APCo. Affiliates of AEP and APCo (Affiliate) are not permitted to participate in this RFP.

Appalachian Power serves about 1 million customers in West Virginia, Virginia and Tennessee. APCo's headquarters is in Charleston, W.Va., with additional regulatory and external affairs offices in Roanoke and Richmond, Va.

Based in Columbus, Ohio, AEP is powering a cleaner, brighter energy future for its customers and communities. The company's nearly 17,000 employees operate and maintain more than 40,000 miles of transmission lines, the nation's largest electric transmission system, and more than 225,000 miles of distribution lines to deliver power to 5.6 million customers in 11 states. AEP also is one of the nation's largest electricity producers with approximately 29,000 megawatts of diverse generating capacity, including nearly 6,000 megawatts of renewable energy. The company is investing $43 billion over the next five years to make the electric grid cleaner and more reliable. AEP is on track to reach an 80% reduction in carbon dioxide emissions from 2005 levels by 2030 and have a goal to achieve net zero by 2045.

AEP is recognized consistently for its focus on sustainability, community engagement, and diversity, equity and inclusion. AEP's family of companies includes utilities AEP Ohio, AEP Texas, Appalachian Power (in Virginia and West Virginia), AEP Appalachian Power (in Tennessee), Indiana Michigan Power, Kentucky Power, Public Service Company of Oklahoma, and Southwestern Electric Power Company (in

Arkansas, Louisiana, east Texas and the Texas Panhandle). AEP also owns AEP Energy, which provides innovative competitive energy solutions nationwide. For more information, visit aep.com.

APCo Service Territory



3. RFP Overview

3.1. Appalachian Power has issued this RFP to support its requirement to provide its customers with carbon-free generation, consistent with the requirements of the Virginia Clean Economy Act (VCEA) for a Phase I utility. APCo is required to meet annual targets that reach 100% by 2050. APCo intends to meet its obligations through a portfolio of projects utilizing different ownership models. This RFP is for renewable energy certificates (RECs) generated by facilities meeting the definition of an RPS eligible source contained in Section 56-585.5.C of the Code (Eligible Renewable Resources).

3.2. APCo is requesting Proposals that will result in obtaining unbundled RECs from Eligible Renewable Resources (Project(s)), as defined further in Section 4.

3.3. The RECs requested via this RFP will be acquired via REC Agreements (Appendix D). APCo will not consider proposals in this RFP that do not meet the criteria as outlined in this RFP. Proposals for PSAs and PPAs should be submitted separately into the Company's PSA and PPA RFPs (see Section 1).

3.4. Affiliates of AEP and APCo (Affiliate) may not participate in this RFP.

3.5. APCo may execute one or more REC Agreements as a result of this RFP.

3.6. Any REC Agreements APCo moves forward with as a result of this RFP may be subject to APCo's receipt of the necessary regulatory approvals from the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

3.7. All questions regarding this RFP should be emailed to: *APCo2024RFP@aep.com*

APCo will post a list of the non-confidential "Questions and Answers" on its RFP website http://www.appalachianpower.com/rfp on a weekly basis following the issuance of the RFP until the Proposal Due Date.

3.8. This RFP is not a commitment by APCo to acquire any RECs and it does not bind the Company or its Affiliates in any manner. The Company in its sole discretion will determine which Bidders, if any, it wishes to engage in negotiations with that may lead to one or more REC Agreements.

4. Product Description and Requirements

4.1. Renewable Energy Certificates (RECs): RECs for the purpose of this RFP must meet the Virginia Renewable Portfolio Standard defined in Section 56-585.5 of the Code and are defined as produced from Eligible Renewable Resources as evidenced by a verified certificate number in PJM's Generation Attribute Tracking System (PJM-GATS).

4.2. Contract Term: Proposals shall be for a term no less than five (5) years, but no greater than thirty (30) years beginning January 1, 2027. Bidders may also offer alternate proposals.

4.3. Eligible Renewable Resources:

4.3.1. Eligible Renewable Resources shall mean electric-generating resources that generate electric energy derived from: (a) solar or wind located within PJM region; (b) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (c) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (d) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected.

4.3.2. Additional information on Eligible Renewable Resources can be found at the following webpage: Virginia RPS Eligible Renewable Resources

4.4. Delivery:

4.4.1. During the Term, RECs must be produced from a Unit Contingent resource (as defined in Section 4.5.1) and delivered to APCo no later than the 15th day following the month the RECs are generated by the Project. All REC deliveries shall occur through the PJM-GATS system into a designated account determined by APCo.

4.5. Other Requirements:

4.5.1. Unit Contingent: RECs must be sourced from a specified Project(s), including a distributed generation asset, that meets the requirements within Section 4.3.1.

4.5.2. Energy Off-Taker: If RECs are generated by a non-distributed asset, Bidder must demonstrate that there is a commitment for the off-take of energy from this Project for the Term of the REC Agreement or provide documentation as how a sale will be secured.

4.5.3. Project Development: If the Project is not already online, Bidder must demonstrate it has obtained both of the following:

- Sufficient site control for the Project. Site control must be in the form of direct ownership, land lease, land lease option or easement. A letter of intent will not be an acceptable form of demonstrated site control.
- A completed PJM System Impact Study or a completed APCo Distribution Impact Study, as applicable.

4.5.4. Environmental Justice: The project shall not adversely impact any goal established by the Virginia Environmental Justice Act (Virginia Code §§ 2.2-234, et. seq.). Please referrer to https://www.epa.gov/ejscreen.

4.5.5. Community: Bidder shall demonstrate community relations, economic development and use of local and diverse suppliers on the Project, please refer to https://www.aep.com/b2b/suppliers.

5. Bid Price and Structure

5.1. Bidders are required to provide the Bid Price, in $/REC.

5.2. The Bid Price must be a fixed, non-escalated price for the term of the REC Agreement.

5.3. Prices must be firm, representing best and final bid. Proposals and bid pricing must be valid for at least 150 days after the Proposal Due Date, unless the Bidder has been notified that its Proposal has been selected for Final Project Selection.

5.4. The Bid Price shall include any costs associated with meeting the credit requirements stated in the Form REC Agreement.

6. RFP Schedule

The schedule and deadlines set out in this section apply to this RFP. APCo reserves the right to revise this schedule at any time and at its sole discretion.

RFP Issued	05/13/24
Proposal Due Date	07/30/24 (3 p.m. EST)
Final Project Selection	10/11/2024
Contract Execution	By 04/25/25
Submit Petition to State Regulatory Commissions for Approval	Within 90 Days of Contract Execution
Receipt of Regulatory Approval Order(s)	~4 to 7 Months after Submission to Commissions for Approval
Term Contract Begins	By 01/01/27

7. Proposal Submission

7.1. Bidders will be required to sign a Confidentiality Agreement (CA) prior to receiving the Form REC Agreement. Bidder should request APCo's Form CA by emailing: APCo2024RFP@aep.com

7.2. Proposals must be complete in all material respects and received no later than 3 p.m. EST on the Proposal Due Date as defined in Section 6.

7.3. A completed Proposal shall be submitted electronically by the Proposal Due Date via email to APCo2024RFP@aep.com .

7.4. The Company reserves the right to solicit additional proposals, if it deems necessary to do so, and the right to submit additional information requests to Bidders during the evaluation process.

7.5. A Proposal should be as comprehensive as possible to enable the Company to make a definitive and final evaluation of the Proposal's benefits to its customers without further contact with the Bidder.

8. Proposal Content

Bidders are encouraged to provide as much information as possible to aid in the evaluation of the Proposal. The Bidder should also provide any additional information the Bidder deems

necessary or useful to the Company in making a definitive and final evaluation of the benefits of the Bidder's proposal without further interaction between the Company and the Bidder. Bidders must submit the following information for each Proposal.

8.1. A completed Bidder and Project Summary (Appendix A), including documents demonstrating project has 1) an energy off-taker (Section 4.5.2), 2) sufficient site control (Section 4.5.3), and 3) interconnection status if Project is not online (Section 4.5.3).

8.2. A completed Proposal Bid Pricing (Appendix B).

8.3. A completed Bidder's Credit-Related Information and Bidder Profile (Appendix C), which shall include:

- A general description of its (including its affiliates) background and experience in the development and construction of at least three renewable projects similar to the Projects sought to provide RECs to the Company in this RFP.
- At least three third-party references for such projects.
- The identity of all persons and entities that have a direct or indirect ownership interest in the Project.

8.4. Provide (i) an affirmative statement that Bidder's taking no exceptions to the Form REC Agreement provided pursuant to this RFP or (ii) a comprehensive list of exceptions to the terms and conditions contained in the Form REC Agreement (Appendix D).

8.5. A completed Appendix E, which must include: a description of the Project's (i) Use of Local Goods & Services, (ii) Use of Small & Diverse Suppliers, and (iii) Environmental Justice considerations.

9. Proposal Evaluation

Proposals must include all applicable content requirements as described in Section 8. APCo will consider bids that are reliable, feasible and represent the most reasonable cost means of satisfying the requirements of this RFP. The Evaluation Process, which includes three phases, is central to the success of APCo's RFP process.

Section 9.1: Eligibility and Threshold Requirements
Section 9.2: Detailed Analysis
Section 9.3: Final Project Selection

9.1. Eligibility and Threshold Requirements: A preliminary screening of each Proposal will be undertaken by the Company to determine if the Proposal is eligible to proceed to the Detailed Analysis phase. Bidders and their associated Proposals must satisfy the following Eligibility and Threshold Requirements:

9.1.1. Proposal must be for a REC Agreement (Section 3.3) and include RECs only from Eligible Renewable Resources (Section 4.3).

9.1.2. Bidder must submit a Proposal for a Term of no less than 5 years, but no greater than 30 years. In addition, alternate terms may be accepted (e.g., a Bidder that submits a proposal with a Term of 20 years, may also submit a proposal with a Term of 12 years) (Section 4.2).

9.1.3. If RECs are generated from a non-distributed generation asset, Proposals must provide a description of commitment for the off-take of energy from this Project for the Term of the REC Agreement or provide documentation as how a sale will be secured and the Project will be ultimately financed and built if not already online (Section 4.5.2).

9.1.4. Proposals for Projects not yet online, must include documentation demonstrating 1) that sufficient site control has been obtained to construct the Project and 2) a PJM System Impact Study or APCo Distribution Impact Study has been completed, prior to the Proposal Due Date (Section 4.5.3).

9.1.5. Proposals must address Environmental Justice requirements (Section 4.5.4).

9.1.6. Bidders must provide a Bid Price ($/REC) that is non-escalated for the Term of the proposal (Section 5.2).

9.1.7. Bidder is required to include requested financial information (Appendix C) so that the Company's credit department can conduct a financial wherewithal assessment. The Bid Price shall include any costs associated with meeting the credit requirements stated in the Form REC Agreement (Section 5.4).

9.1.8. Bidder's exceptions to the Form REC Agreement, considered individually or in the aggregate, are minimally acceptable to the Company as a basis for further discussions (Section 8.4).

9.2. Detailed Analysis: Proposals meeting the Eligibility and Threshold Requirements in Section 9.1 will move to the Detailed Analysis phase, which is comprised of the Economic Analysis and the Non-Price Factor Analysis set forth below.

9.2.1. Economic Analysis: The bid evaluation process will include an assessment of Bid Price and creditworthiness of the Bidder. Proposals with the lowest overall cost to the Company and that meet the Company's credit standards and all other requirements specified in this RFP may be selected for further consideration.

9.2.2. Non-Price Factor Analysis: The Non-Price Factor Analysis will be comprised of the following factors:

9.2.2.1. Bidder's ability to meet contractual credit requirements through the review of recent financial statements, ability to post collateral and raise capital, and any other relevant financial information including current credit ratings will also be assessed.

9.2.2.2. Bidder's background and experience in VA RPS qualified renewable energy projects.

9.2.2.3. Project's impact on Environmental Justice and Fenceline communities.

9.2.2.4. Community relations and economic development considerations, including Bidder's plan to use small and diverse suppliers as subcontractors.

9.2.2.5. Development status of the Project, including, but not limited to, permitting, transmission and interconnection facilities and constructability.

9.3. Final Project Selection: APCo will consider bids that are reliable, feasible and represent a reasonable cost means of satisfying the requirements of this RFP. The Company will notify Bidders whether or not their Proposal has been selected and negotiation of definitive agreements will commence with Bidders whose Proposals have been selected.

10. Reservation of Rights

By participating in the RFP process, each Bidder agrees that any and all information furnished by or on behalf of the Company in connection with the RFP is provided without any representation or warranty, express or implied, as to the usefulness, accuracy, or completeness of such information, and neither the Company nor its Affiliates nor any of their personnel or representatives shall have any liability to any Bidder or its personnel or representatives relating to or arising from the use of or reliance upon any such information or any errors or omissions therein.

A Proposal will be deemed accepted only when the Company and the successful Bidder have executed definitive agreements for the Company's purchase of RECs from the Project. The Company has no obligation to accept any Proposal, whether or not the stated price in such Proposal is the lowest price offered. The Company may reject any Proposal in its sole discretion and without any obligation to disclose the reason or reasons for rejection.

The Company reserves the right to modify or withdraw this RFP, to negotiate with any and all qualified Bidders to resolve any and all technical or contractual issues, or to reject any or all Proposals and to terminate negotiations with any Bidder at any time in its sole discretion. The Company reserves the right, at any time and from time to time, without prior notice and without specifying any reason and, in its sole discretion, to (a) cancel, modify or withdraw this RFP, reject any and all Proposals, and terminate negotiations at any time during the RFP process; (b) discuss with a Bidder and its advisors the terms of any Proposal and obtain clarification from the Bidder and its advisors concerning the Proposal; (c) consider all Proposals to be the property of the Company, subject to the provisions of this RFP relating to confidentiality and any confidentiality agreement executed in connection with this RFP, and destroy or archive any information or materials developed by or submitted to the Company in this RFP; (d) request from a Bidder information that is not explicitly detailed in this RFP, but which may be useful for evaluation of that Bidder's Proposal; (e) determine which Proposals

to accept, favor, pursue or reject; (f) reject any Proposals that are not complete or contain irregularities, or waive irregularities in any Proposal that is submitted; (g) accept Proposals that do not provide the lowest evaluated cost; (h) determine which Bidders are allowed to participate in the RFP, including disqualifying a Bidder due to a change in the qualifications of the Bidder or in the event that the Company determines that the Bidder's participation in the RFP has failed to conform to the requirements of the RFP; (i) conduct negotiations with any or all Bidders or other persons or with no Bidders or other persons; (j) execute one or more definitive agreements with any Bidder, and (k) utilize a Bidder's completed Appendices and any supplemental information submitted by the Bidder in any its regulatory filings.

11. Confidentiality

APCo will take reasonable precautions and use reasonable efforts to maintain the confidentiality of all bids submitted. Bidders should clearly identify each page of information considered to be confidential or proprietary. APCo reserves the right to release any proposals to agents or consultants for purposes of proposal evaluation. APCo's disclosure policies and standards will automatically bind such agents or consultants. Regardless of the confidentiality, all such information may be subject to review by or in proceedings before the appropriate state authority, or any other governmental authority or judicial body with jurisdiction relating to these matters and may be subject to legal discovery. Under such circumstances, APCo and AEPSC will make reasonable efforts to protect Bidder's confidential information.

12. Bidder's Responsibilities

12.1. It is the Bidder's responsibility to submit all requested material by the deadlines specified in this RFP.

12.2. The Bidder should make its proposal as comprehensive as possible so that APCo may make a definitive and final evaluation of the proposal's benefits to its customers without further contact with the Bidder.

12.3. Bidders are responsible for the timely completion of the project and are required to submit proof of their financial and technical wherewithal to ensure the successful completion of the project.

12.4. The Bidder will be responsible for any expenses Bidder incurs in connection with the preparation and submission of a Proposal and/or any subsequent negotiations regarding a Proposal in response this RFP. APCo will not reimburse Bidders for their expenses under any circumstances, regardless of whether the RFP process proceeds to a successful conclusion or is abandoned by APCo at its sole discretion.

13. Contacts

All correspondence and questions regarding this RFP should be directed to:

APCo2024RFP@aep.com

Appendix A
Bidder and Project Summary

Company Information

Bidder (Company):		
Contact Name:		
Contact Title:		
Address:		
City:	State:	Zip Code:
Work Phone:	Cell Phone:	
Email Address:		
Is the Proposal being submitted through a partnership, joint venture, consortium, or other association (Y/N)?		
If so, please identify all partners, joint ventures, members, or other entities or persons comprising same:		

General Project Information of Eligible Renewable Resources

Project(s) Name:	
Resource Type (e.g. Wind, Solar):	
Project Site Located (County, State):	
Commercial Operation Date (Actual or Expected):	
PJM Queue #:	PJM Study Status:
Facility ID Number:	
GATS Registered (Y/N):	
Project Nameplate Capacity (MWac):	

Energy Off-taker (Section 4.5.2):

Bidder has secured an off-taker for the energy from the Project for the Term (Y/N):
Describe or attach documentation describing plans for the energy off-take of the project:

Demonstration of Site Control and Interconnection (Section 4.5.3):

If Project has not achieved commercial operation as of the Proposal Due Date, Bidder shall attach the following:

- Documents demonstrating sufficient site control for the Project has been obtained.
- Completed PJM System Impact Study or APCo Distribution Impact Study, as applicable.

Appendix B

Proposal Bid Pricing

Term Start Date	REC Agreement Term (Years)[1]	Guaranteed Annual REC Volume	Bid Price ($/REC)[2]
			$
			$
			$

Note 1: Bidder's Proposal must include a Term of no less than 5 Years and no greater than 30 Years. Additional alternate terms will be considered.
Note 2: Must be non-escalating for the Term.

Appendix C

Bidder's Credit-Related Information

Full Legal Name of the Bidder:
Type of Organization (Corporation, Partnership, etc.):
Bidder's % Ownership in Proposed Project:
If Bidder's Ownership is <100%, identity of all persons and entities that have a direct or indirect ownership interest in the Project:
Full Legal Name(s) of Parent Corporation: 1. 2. 3.
Entity Providing Credit Support on Behalf of Bidder (if applicable): Name: Address: City: Zip Code:
Type of Relationship:
Current Senior Unsecured Debt Rating (if unavailable, Issuer Rating): 1. S&P: 2. Moody's:
Bank References & Name of Institution:
Bank Contact: Name: Title: Address: City: Zip Code: Phone Number:
Legal Proceedings: As a separate attachment, please list all lawsuits, regulatory proceedings, or arbitration in which the Bidder or its affiliates or predecessors have been or are engaged that could affect the Bidder's performance of its bid. Identify the parties involved in such lawsuits, proceedings, or arbitration, and the final resolution or present status of such matters.
Financial Statements: Please provide copies of the Annual Reports for the three most recent fiscal years and quarterly reports for the most recent quarter ended, if available. If available electronically, please provide link:

APPALACHIAN POWER
An AEP Company

Bidder's Profile

Please list Bidder's Affiliate companies: 1. 2. 3. 4.
Please attach a summary of Bidder's background and experience in VA RPS qualified renewable energy projects.
Please list Bidder's references: 1. Company a. Contact Name: b. Contact Number: c. Project: 2. Company a. Contact Name: b. Contact Number: c. Project: 3. Company a. Contact Name: b. Contact Number: c. Project: 4. Company a. Contact Name: b. Contact Number: c. Project:

Appendix D

Form REC Agreement

See Section 7.1 for instructions to obtain the Form REC Agreement.

Bidder shall provide (i) an affirmative statement that Bidder's taking no exceptions to the Form REC Agreement provided pursuant to this RFP or (ii) a comprehensive list of exceptions to the terms and conditions contained in the Form REC Agreement.

APPALACHIAN POWER
An AEP Company

Appendix E

Local Goods & Services

Describe how the Bidder will be using local goods or services sourced whole or in part from one or more Virginia businesses, as applicable, to the extent practical in the purchase of equipment and material, or services for the Project:

Use of Small & Diverse Suppliers

Describe plan to use reasonable efforts to utilize and adopt a subcontracting plan to use small and diverse suppliers as subcontractors for work (https://www.aep.com/b2b/suppliers):

Environmental Justice

Provide a description of environmental justice factors by the Environmental Justice Act (Virginia Code §§ 2.2-234, *et. seq.*) that are relevant to the Project. If an Environmental Justice or Fenceline community is potentially affected by the Project, list the steps taken by the Project regarding the Commonwealth of Virginia's environmental justice policy. In addition, complete and include an EPA EJScreen Report using the EJScreen Tool (https://www.epa.gov/ejscreen), or if the project is located in Virginia, refer to the Virginia Environmental Data Hub (https://geohub-vadeq.hub.arcgis.com).

Execution Draft

PURCHASE AND SALE AGREEMENT

Dated as of April 15, 2025

by and between

Appalachian Power Company

as Buyer

American Electric Power Service Corporation

as Buyer Agent

and

RWE Solar Development, LLC

as Seller

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT dated as of April 15, 2025 (the "***Execution Date***"), is made and entered into by and between RWE Solar Development, LLC, a Delaware limited liability company (the "***Seller***"), Appalachian Power Company, a Virginia corporation (the "***Buyer***"), and solely with respect to its agency relationship with Buyer hereunder, American Electric Power Service Corporation, a New York corporation ("***Buyer Agent***").

RECITALS

A. Seller is the owner of one hundred percent (100%) of the Equity Interests of Wythe BESS, LLC, a Delaware limited liability company (the "***Company***") (such interests, the "***Purchased Interests***"), which owns all of the rights and assets with respect to the Project (defined below).

B. The Company is developing and constructing a 52.2 MW/208.8 MWH battery energy storage project located in Wythe County, Virginia known as the Wythe BESS project (as more particularly described in Schedules 1.1(c) and 3.4(a) and Exhibit M, the "***Project***").

C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, one hundred percent (100%) of the Purchased Interests, including ownership of the Project following Mechanical Completion thereof, pursuant to the terms and subject to the conditions of this Agreement.

D. At or immediately following the Closing, Buyer intends to either cause the Company to distribute the Project and related assets to Buyer or merge the Company with and into Buyer, with Buyer surviving the merger (the "***Assets Distribution to Buyer or Merger***").

AGREEMENT

NOW THEREFORE, in consideration of the sums to be paid to Seller by Buyer hereunder and the mutual representations, warranties, covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

Section 1.1 Defined Terms. For purposes of this Agreement, the following capitalized terms shall have the following meanings:

"***1933 Act***" means the Securities Act of 1933, as amended.

"***Abnormal Weather Conditions***" means (a) any weather event that has a likelihood of occurrence at the Site of less than fifteen percent (15%) in a given calendar year, when compared to the weather patterns for the past 40 years, and (b) floods, tornadoes, hurricanes, named tropical storms, and hail or ice storms (solely to the extent any such hail or ice storms cause material and documented damage to the Project or otherwise materially interfere with Seller's (or any individual authorized to act by, through or under Seller) access to the Project or perform the Work), regardless of whether they meet the standards of clause (a) above. The source of weather data for the comparisons described in clause (a) of the preceding sentence shall be the weather data from the National Weather Service at the National Oceanic and Atmospheric Administration for the monitoring location closest to the Site; provided, that to the extent that past weather data is not available for the Site for the historical periods described in clause (a) of the preceding sentence, historical weather data for Wythe County, Virginia shall be used as a substitute.

"***AC***" means alternating current.

"***Acquisition Proposal***" means any proposal for a merger, consolidation or other business combination involving the Company or the Project, or any proposal or offer to acquire, directly or indirectly, in any manner, any Equity Interest, or any assets of, the Company or the Project.

"***Action***" means any legal, administrative, arbitral, mediation or other alternative dispute resolution procedure or other action, proceeding, claim, demand, assessment, audit, inquiry or similar investigation.

[redacted]

"***AEP Safety Criteria***" means, with respect to any proposed contractor, (i) an Experience Modification Rate (EMR) of no greater than 1.00, and (ii) a Total Recordable Incident Rate (TRIR) of 2.00 or less, determined on an average basis over the three calendar years preceding the date of determination, and recordable incidents in the calendar year in which the determination is made would not reasonably be expected to result in a TRIR of 2.00 or less determined on an average basis for such calendar year and the two preceding calendar years, (iii) zero fatalities on projects of such contractor and its Affiliates during the calendar year in which the determination is made and the three prior calendar years, and (iv) such proposed contractor is registered with Safety Management Group's VERO program.

"***AEP Supplier Code of Conduct***" means the American Electric Power Supplier Code of Conduct attached hereto as Exhibit T; provided, that if Buyer hereafter provides Seller with an updated version of such code of conduct "***AEP Supplier Code of Conduct***" shall mean the most recent version of the American Electric Power Supplier Code of Conduct provided by Buyer to Seller (each, an "***Updated AEP Supplier Code of Conduct***").

"***Affiliate***" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

[redacted]

"***Agreement***" means this Purchase and Sale Agreement, including all Exhibits and Schedules hereto, as the same may be modified, amended or supplemented from time to time in accordance with Section 12.6.

"***Ancillary Agreements***" means the Membership Interest Assignment, the Excluded Assets and Liabilities Assignment Agreement, the Seller Parent Guaranty, and any other agreement or instrument executed and delivered by the Parties or by either Party or any Affiliate of such Party to the other Party pursuant to this Agreement.

"***Apprenticeship Requirements***" is defined in Section 3.21(b).

"***As-Built Defects***" means matters (a) reflected in the As-Built Survey and included in the Buyer's As-Built Objection Notice, each as delivered pursuant to Section 9.15, and (i) constitute an As-Built Survey Encumbrance, or (ii) reflect that (A) the as built Facilities or the location thereof are not consistent in all material respects with the NTP Survey or the NTP Title Policy, or (B) reflect any portion of the Facilities is located off the Property or does not comply with any required setback, or otherwise is a breach of any of Seller's representations or warranties under this Agreement.

"***As-Built Retained Liabilities***" means any Liability incurred by the Company or Buyer associated with the As-Built Defects (whether incurred before or after the Closing), including amounts necessary to cure or resolve the As-Built Defects.

"***As-Built Survey***" means the final Survey showing the as-built Facilities consistent in all material respects with the NTP Survey and the NTP Title Policy (including the Site Plan shown therein).

"***As-Built Survey Encumbrance***" means any matter reflected in the As-Built Survey, if any, delivered under Section 9.15 that constitutes an Encumbrance other than matters shown on the NTP Survey or the NTP Title Policy.

"***Assets***" of any Person means all assets, rights and properties of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible and wherever situated), including land and properties (or interests therein, including rights of way, leaseholds and easements), buildings, equipment, machinery, improvements, fixtures, Contracts, Environmental Attributes, insolation data, reports and studies (including those related to interconnection, environmental, cultural, resource and market matters), Permits, intellectual property, inventory, Books and Records, proprietary rights, return and other rights under or pursuant to all warranties, representations and guarantees, cash, accounts receivable, deposits and prepaid expenses, and the related goodwill, which assets, rights and properties are operated, owned or leased by such Person.

"***Assets Distribution to Buyer or Merger***" is defined in Recital D.

"***Authority***" means any federal, state, tribal, municipal, national or other government, quasi-governmental, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof, regional transmission organization, independent system operator, or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States or the United States.

"***Balance Sheet***" is defined in Section 5.24(a).

"***Balance Sheet Date***" means [redacted]

"***Bankruptcy Event***" shall be deemed to occur, with respect to any Person, if (a) that Person shall commence any voluntary case under any applicable bankruptcy or similar Law; (b) such Person shall consent to the appointment of a receiver, administrator, administrative receiver, liquidator, trustee or other official with similar powers for itself or all or substantially all of its assets; (c) such Person shall make a general assignment for the benefit of its creditors; (d) an involuntary case shall be commenced seeking liquidation or reorganization of such Person under any bankruptcy or similar Law and (i) such Person consents to the institution of the involuntary case against it, (ii) such involuntary case shall remain undismissed, unbonded or unstayed for a period of [redacted] or (iii) an order for relief shall have been issued or entered therein; (e) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, administrator, administrative receiver, liquidator, trustee or other official having similar powers, over such Person or all or substantially all of its property shall have been entered; or (f) such Person shall be unable to, or shall admit in writing its inability to, pay its debts generally as they become due.

"***Base Purchase Price***" means [redacted]

"***Benefit Plan***" means "employee benefit plan," as such term is defined in Section 3(3) of ERISA, or other pension, bonus, profit sharing, stock option or other agreement or arrangement

providing for employee remuneration or benefits, including a "multiemployer plan," as that term is defined in Section 4001(a)(3) of ERISA.

"***BESS/Inverter Supplier***" means the Contractor selected by Seller, subject to Buyer's prior written approval in Section 3.4(k), to supply the battery energy storage system and inverters for the Project pursuant to the BESS/Inverter Supply Agreement.

"***BESS/Inverter Supply Agreement***" means a supply agreement to be entered into between BESS/Inverter Supplier and the Company pursuant to the terms of this Agreement and based on the form attached hereto as Exhibit U.

"***Business***" means the ownership of the Company Assets and the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project and the conduct of other activities by the Company related or incidental to the foregoing, all as currently conducted or to be conducted.

"***Business Day***" means any day other than Saturday, Sunday or any day on which banks located in New York, New York, or Columbus, Ohio, are authorized or obligated, in each case pursuant to applicable law, to close.

"***Buyer***" is defined in the introductory paragraph of this Agreement.

"***Buyer Agent***" is defined in the introductory paragraph of this Agreement.

"***Buyer-Caused Delay***" means a critical path delay in the Work required to satisfy Mechanical Completion or Substantial Completion to the extent directly caused by [redacted]

"***Buyer Confidential Information***" is defined in Section 9.2(a).

"***Buyer Consents***" is defined in Section 6.4.

"***Buyer's Fundamental Representations***" means the representations and warranties contained in [redacted]

"***Buyer-Furnished Equipment***" is defined in Section 3.24(a).

"***Buyer Indemnified Parties***" is defined in Section 10.2(a).

"***Buyer Indemnifying Party***" is defined in Section 10.2(b).

"***Buyer's As-Built Survey Objection Notice***" is defined in Section 9.15(b).

"***Buyer's Knowledge***" means the actual knowledge of any of the individuals listed on Schedule 1.1(a) after reasonable inquiry by such individuals of those employees of Buyer or its applicable Affiliates who have primary responsibility for the subject matter of the representation and warranty or other matter involved.

"***Buyer Permits***" is defined in Section 5.14(a).

"***Buyer's Site Representative***" is defined in Section 3.2(b).

"***CAR Work***" means any Work performed at any PWA Site with respect to the Project constituting "construction, alteration, or repair" within the meaning of Treasury Regulations Section 1.45-7(d)(3) or any successor PWA Guidance.

"***Cash***" is defined in Section 4.6(i).

[redacted]

[redacted]

"***Closing***" is defined in Section 2.3.

"***Closing Date***" is defined in Section 2.3.

"***Closing Payment***" means the following amount in dollars, which will not, in any event, be less than zero dollars or be duplicative of any adjustments made pursuant to the definition of Purchase Price:

(a) [redacted] of the Purchase Price [redacted] minus

(b) any Known Breach Escrow Amount, if applicable;

[redacted]

"***Closing Title Endorsements***" means the title insurance endorsements covering the Real Property in substantially the forms as referenced on Exhibit A attached hereto.

"***Closing Instruction Letter***" is defined in Section 3.10(p).

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder.

[redacted]

"***Commission Approval Deadline***" means [redacted]

"***Commission Approvals***" means (a) any and all final non-appealable order(s) from the Commission that are necessary or advisable for the Buyer's acquisition of the Purchased Interests, and (b) any and all final non-appealable order(s) from the Commission approving (i) the recovery of all of the costs associated with the Purchased Interests, or (ii) a recovery mechanism for

implementation on or after the date of acquisition of the Purchased Interests, in each case of clauses (a) and (b) that are acceptable to Buyer in its sole discretion.

"***Commissions***" means the Virginia State Corporation Commission and the Public Service Commission of West Virginia. Each of the foregoing is also referred to individually as a "***Commission***".

"***Company***" is defined in Recital A.

"***Company Assets***" means, unless otherwise provided herein, all of the Assets of the Company, including:

(a) the Facilities;

(b) the Material Contracts;

(c) the Property Agreements;

(d) the Permit Applications and the Company Permits;

(e) the Corporate Records;

(f) the Interconnection Rights;

(g) the Real Property;

(h) the design layout of the Facilities;

(i) all emissions allowances or credits, or other Environmental Attributes or financial attributes of the Facilities, if any; and

(j) all ITCs and other federal, state or local tax credits, deductions, exemptions, abatements, or other Tax benefits, and federal or state cash payments or outright grants of money, in each case relating to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation or maintenance of the Facilities or the Project (including any documentation or information that is prepared, compiled or obtained in connection with any taxpayer claiming or monetizing any item described in this clause (j)).

"***Company Permits***" is defined in Section 5.14(a).

"***Completion Certificate***" means a Mechanical Completion Certificate, Substantial Completion Certificate or a Final Completion Certificate, as applicable.

"***Completion Milestone***" means a milestone set forth in Exhibit O, including, without limitation, the Guaranteed Substantial Completion Date.

"***Component***" means all parts, materials, equipment, components and systems incorporated into the Work.

"***Contact Procedures***" means pursuant to the instructions provided in Treasury Regulation Section 1.45-7(b)(3)(ii) requesting a supplemental Wage determination or Wage rates for unlisted labor classifications applicable to the CAR Work performed at the PWA Site by Laborers or Mechanics Employed by Seller or any Subcontractor by contacting the DOL, Wage and Hour Division via email at IRAprevailingwage@dol.gov or such other address as may be prescribed in guidance and instructions issued by the Wage and Hour Division and providing the Wage and Hour Division with the type of Project, Project location, proposed labor classifications, proposed prevailing Wage rates, job descriptions and duties, and any rationale for the proposed classifications.

"***Contract***" means, with respect to any Person, any legally binding agreement, contract, lease, easement, license, deed, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other legally binding arrangement, including, in each case, all amendments, modifications and supplements thereto, but excludes Permits.

"***Contractor Approval Request Notice***" is defined in Section 3.4(k).

"***Contractor Background Information***" means, with respect to any potential contractor that Seller wishes to cause the Company to enter into a Major Project Document with, (i) the most recent three (3) fiscal years of audited financial statements of such potential contractor, (ii) the most recent quarterly unaudited financial statements of such potential contractor, (iii) the safety metrics of such potential Contractor included in the AEP Safety Criteria, (iv) such Contractor's recent experience and performance on battery energy storage projects of similar size and scope as the Project, and (v) such other information with respect to such potential contractor that may reasonably be requested by Buyer.

"***Contractors***" means the EPC Contractor, the BESS/Inverter Supplier, and each other counterparty to a Major Project Document.

"***Corporate Documents***" means the articles or certificate of incorporation and bylaws of a corporation or the equivalent constitutive documents of a limited liability company, partnership, limited partnership or other entity, including (a) any shareholder agreement, voting trust, limited liability company agreement, operating agreement, partnership agreement, or similar Contract and (b) any documents that are required to be registered or kept in the place of incorporation, organization or formation of such Person and which establish the legal personality or governance of such Person.

"***Corporate Records***" means the minute books, membership interest certificates (if any), membership interest transfer ledgers and Corporate Documents of the Company.

"***Credit Rating***" means, for any Person, the lower of the senior unsecured and non-credit-enhanced long-term debt rating of such Person by Moody's or S&P, or if such Person does not have such a senior unsecured and non-credit-enhanced long-term debt rating, the lower of the issuer rating of such Person by Moody's or S&P.

"***Creditworthy Bank***" " means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof or the U.S. branch of a foreign bank, who is not the account party or the account party's Affiliate under the Letter of Credit with (i) a

Credit Rating of at least "A-" by Standard & Poor's Rating Services and "A3" by Moody's Investors Services, Inc.; provided that the Credit Rating of A- or A3 is not on negative watch, and (ii) having a capital and surplus of at least USD 10,000,000,000.

"***Crossing Agreements***" means written agreements, consents, waivers, or affidavits made for the benefit of Company and issued by all necessary parties that authorize locating the Facilities in, over or with respect to (as applicable) rights-of-way, easements or other areas subject to Permitted Encumbrances to the extent that, by the terms of the applicable party's rights, legally require consent or approval for locating the Facilities on the subject real property in order to not violate such rights.

"***Crossing Matrix***" means an excel spreadsheet identifying each necessary party to all Crossing Agreements, the affected Property, and relevant Encumbrances (referenced by exception number on the Preliminary Title Report) to be subject to the applicable Crossing Agreement.

"***Daily Site Entry Log***" means, for each day that CAR Work is performed at the Site (or any other location, as determined consistent with the PWA Guidance, where CAR Work is performed), a fully completed Daily Site Entry Log substantially in the form of Exhibit AA.

"***Date Down Endorsement***" is defined in Section 7.1(h)(i).

"***Default***" means any circumstance, event or condition that, with or without notice or the passage of time or both, would constitute a violation, breach or event of default, or give rise to any penalty or right of termination, cancellation, acceleration or modification, or require any consent or waiver.

"***Defect***" means any defects in the design, application, engineering, materials, installation, construction, or workmanship or service of the Facilities or any of the Components comprising the Facilities or the Work, or any Work that is incomplete or that (a) is of improper or inferior workmanship or material; (b) has not been performed in a workmanlike manner or contains errors or omissions in design; (c) does not conform to the Scope of Work and Specifications, the terms and conditions of the Material Contracts, Land Contracts and Crossing Agreements, all applicable Laws and Permits or the manufacturer's warranty applicable thereto; (d) was not completed in accordance with Prudent Industry Practices; or (e) could reasonably be expected to materially and adversely affect the mechanical, electrical, or structural integrity of the Facilities or the normal operation of the Facilities during the Facilities' design life.

"***Delay Liquidated Damages***" is defined in Section 3.16.

"***DEQ***" means the Virginia Department of Environmental Quality, an agency of the Commonwealth of Virginia.

"***Disqualified Person***" means (a) the United States, any state or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, (b) any organization which is exempt from Tax imposed by the Code (including any former tax-exempt organization within the meaning of Code Section 168(h)(2)(E) and any tax-exempt controlled entity within the meaning of Code Section 168(h)(6)(F)(iii) if such entity has not made the election provided in Code Section 168(h)(6)(F)(ii)), (c) any Person who is not a

United States Person, (d) any Indian tribal government described in Section 7701(a)(40) of the Code, or (e) any partnership or other pass- through entity, any direct or indirect partner (or other holder of an equity or profits interest) of which is an organization or entity described in clauses (a) - (d); provided, however, that any such Person described in clauses (a) - (d) shall not be considered a Disqualified Person to the extent that (i) the exception under Code Section 168(h)(1)(D) applies with respect to the income from the Company for that Person, (ii) the Person is described within clause (c) of this definition, and the exception under Code Section 168(h)(2)(B)(i) applies with respect to the income from the Company for that Person, or (iii) another exception applies under the Code and/or Treasury Regulations and a legal opinion reasonably acceptable to the Buyer is delivered to the Buyer to such effect from nationally recognized Tax counsel reasonably acceptable to the Buyer.

"***DOL***" means the United States Department of Labor.

[redacted]

"***Domestic Content Guidance***" means (i) IRS Notice 2023-38, IRS Notice 2024-9, IRS Notice 2024-41, and IRS Notice 2025-08, and (ii) any guidance or any proposed, temporary or final regulations issued by the U.S. Department of the Treasury, the IRS or the Federal Transit Administration, or any other applicable Authority, interpreting or impacting the requirements under Code Sections 48(a)(12) and 48E(a)(3)(B).

"***Domestic Content Requirements***" means the requirements under Code Sections 48(a)(12) and 48E(a)(3)(B), as applicable, and any Domestic Content Guidance.

"***Electronic Data Room***" means the folder named "Wythe-BESS" located at the website [redacted] to which Buyer and certain of its Representatives have been provided access.

"***Employed***" (and correlative terms "***Employ***", "***Employment***" or "***Employer***") [redacted]

"***Encumbrances***" means any encumbrance, mortgage, pledge, deed of trust, easement, hypothecation, security interest, charge, claim, lease, mineral reservation, covenant, lien, option, purchase right, third party right, encroachment, right-of-way, license or other interest, restriction, right of first option or refusal, the interest of a vendor, lessor or other similar party under any conditional sale, capital lease or other title retention agreement, or similar restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership, or other agreement or arrangement that has the same or a similar effect as the granting of security, or any legal obligation to create any of the foregoing.

[redacted]

"***Environmental Attributes***" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, related to the Project (including emissions reduction credits or allowances under all applicable emission trading, compliance or budget programs, or any other federal, state or regional emission, renewable energy or energy conservation trading or budget program), but excluding any Tax benefits or credits associated with the Project. Environmental Attributes include but are not limited to: (a) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOX), carbon monoxide (CO), and other pollutants; and (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United States Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.

"***Environmental Laws***" means all Laws and Permits relating to the environment, human health, safety, natural resources, plant and animal species, cultural and archaeological resources, or the use of or Release into the environment of any Hazardous Materials, including the Clean Air Act (42 U.S.C. §7401 et seq.), the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 (42 U.S.C.§9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), the Safe Drinking Water Act (42 U.S.C. §300f et seq.), the U.S. Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), the Endangered Species Act (16 U.S.C. §1531 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. §668 et seq.), the Migratory Bird Treaty Act (16 U.S.C. §703 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 to 4370h), the National Historic Preservation Act (16 U.S.C. §§ 470 et seq.), and Title 14 Code of Federal Regulations Part 77, and 49 U.S.C. § 44718, and any similar or analogous state and local Laws promulgated thereunder and decisional law of any Authority, as each of the foregoing has been or may be amended or supplemented from time to time in the future, and any applicable standard of conduct under any common law doctrine, including negligence, nuisance or trespass, personal injury or property damage related to or arising out of the presence, Release or exposure to Hazardous Materials.

"***EPC Contract***" means that certain Engineering, Procurement and Construction Agreement to be entered into between EPC Contractor and the Company for all of the EPC Work in accordance with the Scope of Work and Specifications and which shall include the terms and conditions set forth on Exhibit C and shall otherwise be in form and substance reasonably acceptable to Buyer. .

"***EPC Contractor***" means the EPC Contractor under the EPC Contract.

"***EPC Parent***" means the entity named as the guarantor in the EPC Parent Guaranty.

"***EPC Parent Guaranty***" means that certain guaranty from EPC Parent in the form attached hereto as Exhibit L, or otherwise in form and substance acceptable to Buyer in its sole discretion,

with respect to the obligations of the EPC Contractor under the EPC Contract, to be delivered by EPC Parent to Company concurrently with the execution of the EPC Contract.

"***EPC Work***" means the entire scope of Work for the Project other than the Work to be provided by the BESS/Inverter Supplier pursuant to the BESS Supply Agreement.

"***Equity Interests***" means capital stock, partnership, membership or trust interests, shares or units (whether general or limited), and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing entity.

"***Equity Securities***" means (a) Equity Interests, (b) subscriptions, calls, warrants, options or commitments of any kind or character legally entitling any Person to acquire, any Equity Interests and (c) securities convertible into or exercisable or exchangeable for Equity Interests.

"***ERISA***" means the Employee Retirement Income Security Act of 1974.

[redacted]

"***EWG***" means an exempt wholesale generator pursuant to the Public Utility Holding Company Act of 2005.

"***Exception Documents***" is defined in Section 3.6(a)(iii).

"***Excluded Assets***" means those Assets listed on Schedule 1.1(b).

"***Excluded Assets and Liabilities Assignment Agreement***" means an assignment agreement to convey Excluded Assets and Liabilities from the Company to Seller or one of its Affiliates, in the form attached hereto as Exhibit D.

"***Excluded Liabilities***" means, collectively, the following Liabilities:

(a) any Liability under the Material Contracts, the Property Agreements, the Company Permits, the Permit Applications, the Interconnection Rights or other Contracts, including those to which the Company is or was a party at or prior to Closing, to the extent such Liability relates to the period prior to the Closing Date, whether or not actually due and owing prior to the Closing Date;

(b) any Liabilities prorated to Seller under Section 2.4(b);

(c) any Liabilities associated with, arising out of or related to the Excluded Assets;

(d) any Liability relating to any present or former developer, owner, lessee or operator of the Project;

(e) any Liabilities identified as Excluded Liabilities in the Schedules;

(f) any As-Built Retained Liabilities;

(g) any Liabilities associated with any Indebtedness of the Company incurred prior to the Closing;

(h) any Liabilities arising out of or related to the Company's employment of any employees prior to the Closing Date, and any Liabilities of the Company with respect to any Benefit Plan that any entity maintains or in the past maintained (or to which such entity ever contributed or was required to contribute);

(i) any fees or other amounts payable under Land Contracts in connection with the construction and installation of any Facilities on or before the Final Completion Date, whether any such fees or other amounts are payable before or after the Closing (exclusive of any fees or other amounts related to operating expenses and rental payments, but including any fees or other amounts payable in connection with the redesign, relocation or reconstruction of any third-party facilities (such as transmission lines), whether before or after the Closing, required to be paid pursuant to the terms of such Land Contracts or any Contract required to be entered into in connection therewith); and

(j) the costs of any AC interference, mitigation or other studies required to be performed (whether before or after the Closing Date) pursuant to any Contract entered into before the Closing with respect to any third party facilities potentially affected by the gen-tie line or any other Facilities, and the cost required to comply with and implement the recommendations or requirements of any such study;

(k) any Taxes of Seller and its Affiliates (other than the Company) for any taxable period (including for the avoidance of doubt any Taxes resulting from any reorganization or restructuring of Seller or its Affiliates (including the Company) prior to the Closing);

(l) any Liability of the Company for Taxes with respect to any taxable period, or portion thereof, ending on or prior to the Closing Date (including the pre-Closing portion of any Straddle Period, as determined pursuant to Section 9.4(b)) with respect to the Company, the Project, or the Company Assets;

(m) any Liabilities of the Company for Taxes of another Person (other than Buyer or an Affiliate of Buyer) (i) as a result of being a member of, or a successor member of, an affiliated, combined, consolidated or unitary group for any taxable period that begins prior to the Closing Date, or (ii) as a transferee or successor, by contract or otherwise; and

(n) any and all costs, expenses and Liabilities arising in connection with or associated with designing, developing, engineering, procuring, constructing, installing, interconnecting, testing, commissioning and financing the Project in accordance with the requirements of this Agreement through Final Completion, or associated with operating and maintaining the Project prior to the Closing Date.

For the avoidance of doubt, the Liabilities that are specifically allocated to Buyer under this Agreement, including (1) as set forth in (A) Section 9.14 and (B) Section 2.8 of the Siting Agreement or (2) any post-Closing obligations under the Shared Facilities Agreement [redacted] are not Excluded Liabilities.

"***Execution Date***" is defined in the introductory paragraph of this Agreement.

"***Exhibits***" means the exhibits attached to, and expressly contemplated in, this Agreement, including those to be delivered at the Execution Date or at the Closing Date.

"***Expected Total Capacity***" means the MW and MWH for the Project stated in Recital B.

"***Facilities***" means the battery energy storage system, inverters, power stations, O&M building or facility, electrical collector system, communication lines, roads, fences, gates, foundations, Project substation, transmission and gen-tie lines, whether overhead or undergrounds, laydown areas, work areas and other temporary and permanent fixtures, and all other equipment, components, materials, improvements and assets relating to the Project, including those set forth on Schedule 1.1(c).

"***FERC***" means the Federal Energy Regulatory Commission, including its staff acting under delegated authority.

"***Final Completion***" is defined in Exhibit O.

"***Final Completion Certificate***" means a certificate in the form attached hereto as Exhibit E-3 issued by the EPC Contractor and Seller certifying as to the satisfaction or achievement of Final Completion.

"***Final Completion Date***" means the date on which the Project shall have achieved Final Completion and the Final Completion Certificate with respect thereto shall have been accepted by Buyer in accordance with Exhibit O.

"***Final Completion Payment***" means the following amount in dollars, which will not, in any event, be less than zero dollars:

(a) except as provided in Section 2.2(d) [redacted], plus

(b) any remaining unpaid SC Punch List Holdback Release as of the Final Completion Payment Date, net of (i) any amount of the SC Punch List Holdback Amount paid by Buyer or the Company directly to any Contractor in respect of any SC Punch List Items that have been completed and (ii) any amount of the SC Punch List Holdback Amount that Buyer or the Company agreed to retain and not pay to any Contractor in exchange for not requiring such Contractor to complete any SC Punch List Item.

"***Financial Statements***" is defined in Section 5.24(a).

"***Financing Costs***" means any and all costs and expenses associated with financing the Project (including for any required reserve funds or reserve fund insurance policies), including any

financing costs or expenses incurred by Seller or the Company as part of a debt or equity financing for the Project, including any interest, discount, fees (including any fees payable to any agent, arranger or other Financing Party or Financing Agent, or to attorneys or other consultants or service providers engaged in connection with any financing), premiums, reimbursements, payments or premiums in connection with the redemption, repurchase or defeasance of any debt or equity financing, returns on capital or equity, payments in respect of swap, hedging, futures or other derivative contracts entered into in connection with or related to such debt or equity financing, make-whole or similar payments, or any other amounts payable by Seller or the Company that are in respect of or intended to directly or indirectly compensate any Person for providing any debt or equity financing in respect of the Project or Seller's obligations under this Agreement or to pay or reimburse any Person for any costs or expenses incurred in connection therewith.

"***Force Majeure***" is defined in Section 3.12(a).

"***GAAP***" means generally accepted accounting principles in the United States of America as recognized by the American Institute of Certified Public Accountants, consistently applied for a Person throughout the specified periods and maintained on a consistent basis for a Person throughout the period or periods indicated and consistent with such Person's prior financial practice.

"***Good Faith Effort Exception***" means the exception from compliance with the Apprenticeship Requirements provided for in Code Sections 48(a)(11) and 48E(d)(4) and the PWA Guidance (including Treasury Regulation Section 1.45-8(f)(1)).

[redacted]

"***Guaranteed Substantial Completion Date***" means the date that is [redacted] which date may be extended by Seller Excusable Events that occur after the Mechanical Completion Date solely to the extent provided in Section 3.12; provided, that in no event shall the Guaranteed Substantial Completion Date be extended beyond [redacted] except by a written amendment to this Agreement executed by the Parties that expressly extends the Guaranteed Substantial Completion Date beyond [redacted] The Guaranteed Substantial Completion Date may not be extended by Seller Excusable Events that occur before the Mechanical Completion Date and are not continuing after the Mechanical Completion Date.

"***Hazardous Materials***" means any substances, pollutants, contaminants, wastes, or materials (including petroleum (including crude oil or any fraction thereof), petroleum wastes, radioactive material, hazardous wastes, toxic substances, asbestos or any materials containing asbestos, urea formaldehyde, polychlorinated biphenyls, per and polyfluoroalkyl substances, perfluorooctanoic acid, and perfluorooctane sulfate) designated, regulated, or defined under or

with respect to which any requirement or Liability may be imposed pursuant to any Environmental Law.

"***Identifying Information***" is defined in Section 3.21(c)(iv)(A).

"***Indebtedness***" means, with respect to any Person: (a) all obligations of such Person for borrowed money or with respect to deposits, overdrafts or advances of any kind, and all accrued but unpaid redemption or prepayment premiums or penalties and any other fees and expenses paid to satisfy such obligations; (b) all obligations of such Person evidenced by bonds, debentures, notes, mortgages, deeds of trust, assignments of rents, or similar instruments; (c) all obligations of such Person in respect of the deferred purchase price of property or services, including any such balance that constitutes an accrued expense or trade payable; (d) any obligations of others secured by (or for which the secured party has an existing right, contingent or otherwise, to be secured by) any Encumbrance on any real or personal property owned or acquired by such Person; (e) all obligations of such Person guaranteeing any indebtedness or other obligation of any other Person in any manner, whether directly or indirectly; (f) all obligations of such Person under capital or synthetic leases, conditional sales contracts and other similar title retention instruments; (g) all reimbursement obligations of such Person for drawn upon letters of credit and other similar instruments; (h) all obligations of such Person under any interest rate protection agreement, swap or collar agreement or other similar agreement designed to protect a Person against fluctuations in interest rates or other currency fluctuation or commodity hedging transaction; and (i) all obligations of such Person in respect of any amount properly characterized as indebtedness in accordance with GAAP. The Indebtedness of any Person shall include all accrued but unpaid interest, and penalties and fees and the Indebtedness of any other Person to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such other Person. For the avoidance of doubt, the obligations of the Company under the Shared Facilities Agreement shall not be considered to be Indebtedness.

"***Indemnified Party***" or "***Indemnified Parties***" shall mean, as applicable, the Buyer Indemnified Parties, the Seller Indemnified Parties or both the Buyer Indemnified Parties and the Seller Indemnified Parties.

"***Indemnifying Party***" shall mean, as applicable, the Buyer Indemnifying Party, the Seller Indemnifying Party or both the Buyer Indemnifying Party and the Seller Indemnifying Party.

"***Indemnity Cap***" means an amount equal to [redacted]

"***Independent Accountant***" means [redacted] (so long as it is independent of the Parties) or another nationally recognized firm of independent certified public accountants that is mutually acceptable to Seller and Buyer and that has not performed material services for Seller, Buyer, or any of their respective Affiliates, during the three (3) year period prior to the selection of the Independent Accountant.

"***Independent Engineer***" means a nationally recognized engineering firm that is mutually acceptable to Seller and Buyer, that possesses substantial expertise with battery energy storage systems of the same type included in the Project, and that has not performed material services for

Seller, Buyer, or any of their respective Affiliates, during the three (3) year period prior to the selection of the Independent Engineer.

"***Intellectual Property***" means all intellectual property, including: (a) patents, inventions, discoveries, processes, designs, techniques, developments, technology, and related improvements and know-how, whether or not patented or patentable; (b) copyrights and works of authorship in any media, including computer hardware, software, firmware, applications, files, systems, networks, databases and compilations, documentation and related textual works, graphics, advertising, marketing and promotional materials, photographs, artwork, drawings, articles, textual works, and Internet site content; (c) trademarks, service marks, trade dress, logos, Internet domain names, any and all common law rights thereto, and registrations and applications for registration thereof, all rights therein provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing; and (d) trade secrets and confidential information, including the ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

"***Interconnection***" means the connection of the Project to Transmission Owner's electrical transmission system as coordinated by the Company with the Transmission Owner or Transmission Provider.

"***Interconnection Agreement***" means the Generator Interconnection Agreement entered into by and among [redacted] Transmission Provider and Transmission Owner with respect to the Interconnection, in the form required by the Transmission Provider and the Transmission Owner, including, for the avoidance of doubt, all appendices and agreements required to be entered into under the terms of the Interconnection Agreement.

"***Interconnection Rights***" means any and all of the Company's or Seller's rights and interests in the Project's Interconnection under the Interconnection Agreement, and any subsequent studies, reports or other documents provided by Transmission Provider and/ or Transmission Owner, and as such rights and interest in the Project's Interconnection may be furthered defined or specified by, and otherwise consistent with, the terms of the Shared Facilities Agreement and the [redacted]

"***Interest Rate***" means, for any date, a rate per annum equal to the sum of (i) the "Prime Rate" as published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day, on the most recent preceding day on which published), plus (ii) [redacted]

"***Investment Grade Requirements***" means (a) a Credit Rating of (i) BBB- or better from S&P, provided that the Credit Rating of BBB- is not on negative watch, or (ii) Baa3 or better from Moody's, provided that the Credit Rating of Baa3 is not on negative watch; or (b) at least [redacted] as determined by Seller's Parent's audited consolidated and unconsolidated financial statements for the then-current year.

"IRA Guidance" means the PWA Guidance and the Domestic Content Guidance, and any other guidance issued by the Secretary of the U.S. Department of the Treasury (including any

guidance issued by the IRS) or any other applicable Authority interpreting the requirements under Sections 45, 45Y, 48 or 48E of the Code, as applicable.

"***IRS***" means the United States Internal Revenue Service.

"***IRS Notices***" means the guidance published by the IRS under IRS Notice 2013-29, 2013-20 I.R.B. 1085; IRS Notice 2013-60, 2013-44 I.R.B. 431; IRS Notice 2014-46, 2014-36 I.R.B. 520; IRS Notice 2015-25, 2015-13 I.R.B. 814; IRS Notice 2016-31, 2016-23 I.R.B. 1025; IRS Notice 2017-04, 2017-4 I.R.B. 541; IRS Notice 2018-59, 2018-28 I.R.B. 196, IRS Notice 2019-43, 2019-31 I.R.B. 487, IRS Notice 2020-41, 2020-25 I.R.B. 954; IRS Notice 2021-5, 2021-3 I.R.B. 479; IRS Notice 2021-41, 2021-29 I.R.B. 17; and IRS Notice 2022-61, 2022-52 I.R.B. 560 and any subsequent IRS notice or published guidance on or interpretation of the beginning of construction requirements set forth in Sections 45, 45Y, 48 or 48E of the Code, in each case, issued by a Tax Authority.

"***Issued Company Permits***" is defined in Section 5.14(a).

"***ITC***" means the investment tax credit allowable pursuant to Section 48 of the Code or the clean electricity investment credit allowable pursuant to Section 48E of the Code, as applicable, and in each case as described in the IRS Notices and IRA Guidance.

"***ITC Qualified Facility***" means the portion of the Project that constitutes the "energy project" for purposes of Section 48(a)(9)(A)(ii) of the Code and Treasury Regulations Section 1.48-9(f) or the "qualified facility" for purposes of Section 48E(b)(3) of the Code and Treasury Regulation Section 1.48E-2(b).

"***Job Classification***" means the applicable labor classification of any Laborer at the PWA Site.

"***Known Breach Escrow Amount***" means an amount estimated in good faith by Buyer, after consultation with Seller, equal to the Losses reasonably expected to be incurred by Buyer or the Company, with respect to Buyer's Knowledge of breaches of Seller's representations and warranties in Article V and Buyer's Knowledge of Seller's breaches of covenants that were to be performed prior to Closing. If Buyer elects to waive Buyer's closing condition in Section 7.1(b) with respect to any breach(es) of Seller's representations or warranties in Article V or Seller's breaches of covenants that were to be performed before Closing, neither such waiver nor the establishment of a Known Breach Escrow Amount shall relieve Seller of any of its obligations under Article X with respect to any such breach(es). Buyer will hold the Known Breach Escrow Amount as cash collateral for the performance of Seller's obligations under Article X and Seller hereby grants to Buyer a security interest such cash collateral to secure the foregoing obligations.

"***Known Breach Escrow Amount Threshold***" means an amount equal to [redacted] of the Base Purchase Price.

"***Laborer***" means any individual who is a "laborer" or "mechanic" within the meaning of Treasury Regulations Section 1.45-7(d)(8) or any successor PWA Guidance.

"***Labor Hours Requirement***" is defined in Section 3.21(c).

"***Land Contracts***" means, to the extent granting interests in real property and not personal property, all easement agreements, lease agreements, deeds or other agreements granting rights to the Company with respect to the occupancy, use or ownership of any portion of the Site or otherwise necessary for the operation and maintenance of the Project on the Site, including all options or agreements for real property interests (including options or agreements to acquire real property in fee, leasehold or easement estates), and any Crossing Agreements, all amendments, supplements and agreements, and memoranda or notices intended to give record notice, in connection therewith.

"***Law***" means all foreign, federal, state, tribal, local, county or municipal laws (including common law), statutes, rules, acts, treaties, regulations, ordinances, Permits and requirements (including all Environmental Laws) standards, codes, orders, guidance, directive, judgments, binding decisions, writs, injunctions, or decrees issued or enforced by any regulatory or other Authority having jurisdiction over either Party, the Company or the Project.

"***Letter of Credit***" shall mean an irrevocable, unconditional, transferable, standby letter of credit, governed by the International Standby Practices rules, International Chamber of Commerce Pub. 600 and issued by a Creditworthy Bank, the stated amount, terms and conditions of which are acceptable to Buyer, and substantially in the form attached hereto as Exhibit G.

"***Letter of Credit Default***" means the occurrence of any of the following events in respect of a Letter of Credit:

a) the issuer of the Letter of Credit is no longer a Creditworthy Bank;

b) the issuer of the Letter of Credit disaffirms, disclaims, repudiates, or rejects in whole or in part, or challenges the validity of, such Letter of Credit;

c) the Letter of Credit expires or terminates or ceases to be in full force and effect at any time as required by Section 4.6;

d) any bankruptcy or event analogous to a bankruptcy (i.e., receivership, assignment for the benefit of creditors, etc.) with respect to the issuer of the Letter of Credit;

e) [redacted] prior to the expiration or termination date of a Letter of Credit, the Letter of Credit is not extended or replaced with a Letter of Credit for an amount at least equal to that of the Letter of Credit being replaced for the duration of the term as set forth in Section 4.6; provided that, for the avoidance of doubt, (i) the effective date of any replacement Letter of Credit shall not be earlier than the first day from and after the date of expiration or termination of the Letter of Credit being replaced and (ii) it shall not be considered a Letter of Credit Default hereunder if a replacement Letter of Credit is issued substantially contemporaneously with the expiration or termination of the Letter of Credit being replaced;

f) the issuer of the Letter of Credit fails to honor a drawing under the Letter of Credit in accordance with its terms; or

g) the issuer of the Letter of Credit fails to comply with or perform its obligations under the Letter of Credit in accordance with its terms and the failure continues after the lapse of any applicable grace period;

In all cases, the costs and expenses (including attorneys' fees) of establishing, renewing, substituting, canceling, increasing, and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by the Seller.

"***Liabilities***" means any and all direct or indirect liabilities, Indebtedness, obligations, commitments, losses, damages, expenses, claims, deficiencies, or guaranties of any type, whether accrued or unaccrued, asserted or unasserted, fixed absolute or contingent, matured or unmatured, liquidated or unliquidated, incurred, due or to become due, known or unknown, whenever or however arising (including whether arising out of any Contract or tort based on negligence, strict or joint and several liability, or otherwise) and whether or not the same would be required by GAAP to be specifically identified as a liability in financial statements or disclosed in the notes thereto.

"***Loss***" [redacted]

"***LTSA***" is defined in Section 3.10(m).

"***LTSA Provider***" means the BESS/Inverter Supplier or an Affiliate of the BESS/Inverter Supplier approved by Buyer.

"***Made Available***" means the respective materials were posted to and remain in the Electronic Data Room and pursuant to an agreement to be executed by the Parties to safeguard sensitive pricing and other competitive information, in unredacted form, including all exhibits, schedules, appendices and other attachments thereto, except, solely with respect to the period prior to the Closing Date, for redactions of competitively sensitive information from Contracts related to the Project.

"***Major Project Document Estoppels***" means those estoppel certificates from the counterparties to each of the Major Project Documents in substantially the form attached hereto as Exhibit H-1 and Exhibit H-2, as applicable, with respect to the Major Project Document Estoppels delivered on the Closing Date, and Exhibit H-3 and Exhibit H-4, as appliable, with respect to the Major Project Document Estoppels delivered on the Substantial Completion Payment Date. For the avoidance of doubt, the Major Project Document Estoppel with respect to [redacted]

"***Major Project Documents***" means the EPC Contract, the [redacted]

[redacted]

"***Manufactured Product Component***" means a project component listed in the "MPC" column of the "safe harbor" table in Section 7.02 of IRS Notice 2025-08 or any successor Domestic Content Guidance.

"***Material Adverse Effect***" [redacted]

"***Material Contracts***" is defined in Section 5.13(a).

"***MC Punch List***" means the list of MC Punch List Items. If the Parties are unable to agree upon whether an item should be included in the MC Punch List, the Independent Engineer shall make such determination.

"***MC Punch List Items***" means each item of Work that, as of the Mechanical Completion Date, remains to be completed in order to achieve Substantial Completion or Final Completion.

"***Mechanical Completion***" is defined in Exhibit O.

"***Mechanical Completion Certificate***" means a certificate in the form attached hereto as Exhibit E-1 issued by the EPC Contractor and Seller certifying as to the satisfaction or achievement of Mechanical Completion.

"***Mechanical Completion Date***" means the date on which the Project shall have achieved Mechanical Completion and the Mechanical Completion Certificate with respect thereto shall have been accepted by Buyer in accordance with Exhibit O.

"***Membership Interest Assignment***" is defined in Section 7.1(a)(i).

"***Monthly Report***" is defined in Section 3.2(a).

"***Monthly PWA Report***" is defined in Section 3.21(g).

"***Moody's***" means Moody's Investors Service, Inc., or a successor (if any).

"***MW***" means megawatt measured in AC.

"***MWH***" means megawatt hours measured in AC.

"***Notice to Proceed***" means that full notice to proceed with the construction of the Project in the form of the Notice to Proceed attached hereto as Exhibit K.

"***Notice to Proceed Date***" means the date that the Notice to Proceed is issued.

"***Notice to Proceed Outside Date***" means [redacted]

"***NTP Survey***" has the meaning set forth in Section 3.10(q).

"***NTP Title Policy***" has the meaning set forth in Section 3.10(p).

"***O&M Facility***" two Connex boxes designed in accordance with Exhibit M.

"***O&M Facility Substantial Completion***" is defined in Exhibit O.

"***O&M Facility Substantial Completion Date***" means the date O&M Facility Substantial Completion occurs in accordance with Exhibit O.

"***Order***" means any settlement, stipulation, order, writ, judgment, injunction, decree, ruling, determination or award of any Authority.

"***Ordinary Course of Business***" means an action taken by a Person that is consistent in nature, scope, and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person, including with respect to the Company, to design, develop, engineer, procure, permit, construct, install, test, commission, own, maintain and operate the Project.

"***Outside Date***" is defined in Section 11.1(a)(iii).

"***Party***" means Buyer or Seller individually; and "Parties" means Buyer and Seller collectively.

"***Participation Requirement***" is defined in Section 3.21(e).

[redacted]

"***Performance Guarantees***" is defined in Exhibit O.

"***Performance LD Rate***" is defined in Exhibit O

"***Performance Liquidated Damages***" is defined in Exhibit O

"***Permit***" means (a) any license, consent, certificate (including permanent unconditional certificate of occupancy), approval, permit, authorization, determination, concurrence, franchise and similar written consents and Orders of any sort whatsoever by or from any Authority, required under applicable Law for the design, development, engineering, procuring, construction, installation, testing, commissioning, ownership, maintenance, operation or transfer of the Project, and (b) any notice to, or declaration, filing, or registration with, any Authority required under Applicable Law, in each case in connection with the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project.

"***Permit Application***" means any application, petition or written request made by the Company, Seller or any other of its Affiliates to any Authority on or before the Closing Date in order to obtain a Permit.

"***Permitted Encumbrances***" means, collectively: (a) inchoate statutory-created Encumbrances for current property taxes not yet due or payable; provided an appropriate reserve has been established therefor in the Financial Statements in accordance with GAAP; (b) applicable zoning, building and land-use laws; (c) Encumbrances disclosed in the Schedule B Exceptions or Preliminary Survey; (d) any other Encumbrance created by or approved in writing by Buyer or deemed approved by Buyer as expressly set forth in Section 3.6(a), and Section 3.6(d); (e) Encumbrances constituting "Permitted Encumbrances" pursuant to Section 3.6(d); (f) Encumbrances disclosed in an Updated Title Reports and Updated Survey Sheet(s) approved in writing by Buyer or deemed approved by Buyer as expressly set forth in Section 3.6(d); (g) Encumbrances affirmatively insured over, or covered by endorsements, under the terms of the Title

Policy in a manner reasonably acceptable to Buyer; and (h) Encumbrances consisting of mortgages or similar instruments affecting an interest in land superior to the interest of the Company in the Land Contracts, but only if such Encumbrance is the subject of a Subordination Agreement reasonably satisfactory in substance and form to Buyer; provided that, for each of (c)-(h), limited to the extent that such item is both (1) recorded in the public record or otherwise disclosed to Buyer in writing or on the Preliminary Survey, Updated Survey Sheet(s) or, subject to Section 9.15, the As-Built Survey, and (2) does not individually or collectively with the other Permitted Encumbrances materially and adversely impact the use, possession, value, or operation of the Project as contemplated herein.

"***Person***" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, decedent's estate, organization, entity, or unincorporated organization or any Authority.

"***Placed in Service***" means, with respect to the Project, "placed in service" within the meaning of Treasury Regulations Section 1.48-9(b)(5) and Treasury Regulation Section 1.48E-2(b)(2)(i).

"***Point of Interconnection***" shall have the meaning set forth in the Interconnection Agreement.

"***Post-Closing Adjustment***" is defined in Section 2.5(a).

"***Post-Closing Statement***" is defined in Section 2.5(a).

[redacted]

"***Preliminary Survey***" means the final, pre-construction Survey that (i) comports with the Preliminary Title Report by including the same legal description of the Real Property as set forth in the Preliminary Title Report and the same list (including as to order of same) of Encumbrances as set forth in the Preliminary Title Report, (ii) with respect to each such listed Encumbrance, states whether such Encumbrance is blanket, plotted (and if so, identifies such Encumbrance in a manner consistent with the Preliminary Title Report and shows the boundaries of same), or not plottable (and if so, the reason the same is not plottable); and, by way of clarification, does not include references to any Encumbrance that "does not affect" the Real Property, (iii) lists on each sheet of the Survey, the Encumbrances that affect the portion of the Real Property depicted on such Survey sheet, (iv) includes a complete legend on every sheet of the Survey setting forth each and every symbol, formatted or stylized line or mark, abbreviation or other identifying information shown on the depiction of the Real Property in the Survey, and (v) includes identifying labels on all public roads and rights-of-way, structures, Facilities, including access roads, shown on the depiction of the Real Property in the Survey, and, by way of clarification, does not include an item or mark on the depiction of the Real Property that is not so identified or included in the legend on the Survey.

"***Preliminary Title Report***" means a combined Title Report for all of the Real Property that (i) comports with the Preliminary Survey by including the same metes and bounds legal description

and, if applicable, subdivision plat, of the Real Property as set forth in the Preliminary Survey and the same list (including as to order of same) of Encumbrances as set forth in the Preliminary Survey and does not include any Encumbrances that do not affect the Real Property, (ii) lists Encumbrances organized by identifiable tract or parcel of Real Property subject to each Land Contract, which tract or parcel references generally comport with the tract or parcel references of the portion of the Real Property described in such Land Contract, acknowledging that certain parcel reference may have changed from the original description in the Land Contract (for example, parcel splits or combinations resulting in new parcel designations) and the ordering of tracts on the combined Title Report may not exactly align with the ordering of tracts on the relevant Land Contract, and (iii) with respect to any mortgage, deed of trust, security interest, mineral reservation, lien or other Encumbrance listed for which a curative item is needed in order for the Title Company to issue the Title Policy in accordance with Section 7.1(f)(i), identification of such curative item, such as, for example, Subordination Agreements and Crossing Agreements.

"***Prevailing Wage Rate***" means the Davis-Bacon Act prevailing rates as most recently determined by the Secretary of Labor, as of the Execution Date, for CAR Work of a similar character at the PWA Site, in accordance with subchapter IV of chapter 31 of title 40, United States Code and Treasury Regulation Section 1.45-7(b), as redetermined as of any date when the Agreement is changed to include additional, substantial CAR Work not within the scope of work of the original contract, or to require work to be performed for an additional time period not originally obligated, or as otherwise required under the PWA Guidance, to Laborers at the PWA Site for the Job Classification.

"***Prevailing Wage Requirement***" is defined in Section 3.21(a).

[redacted]

"***Project***" is defined in Recital B.

"***Project Insurance Policies***" is defined in Section 5.18.

"***Project Schedule***" means the Project Schedule as defined in Section 3 of the Scope of Work and Specifications and updated on a monthly basis pursuant to Section 3 of the Scope of Work and Specifications.

"***Property***" means the real property that is covered by the Land Contracts.

"***Property Agreements***" means collectively the Land Contracts and Subordination Agreements.

"***Property Agreement Approval Request Notice***" is defined in Section 3.4(f).

"***Provisionally-Approved Contractor List***" is defined in Section 3.4(k).

"***Prudent Industry Practices***" means the implementation and exercise of those practices, methods, standards and acts, and the performance of the Work, in accordance with the degree of

judgment and skill that is ordinarily possessed and exercised by (and generally accepted as being appropriate for) nationally recognized engineering, procurement and construction professionals, or other relevant professionals, of good standing (including those engaged in or approved by a significant portion of the battery energy storage industry for similar battery energy storage facilities in similar locations in the United States) that at a particular time in the exercise of good judgment and in light of the facts known at the time the decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable Laws, equipment manufacturer recommendations, safety, environmental protection, economy and expedition. Prudent Industry Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of action reasonable under the circumstances.

"***Purchase Price***" means the Base Purchase Price, as adjusted pursuant to, if applicable:

(a) a mutually agreed upon written amendment of this Agreement by the Parties;

[redacted]

(c) any adjustment contemplated by Section 2.8; and

[redacted]

"***Purchase Price Allocation Schedule***" is defined in Section 2.6.

[redacted]

"***Purchased Interests***" is defined in Recital A.

"***PWA Consultant***" is defined in Section 3.21(d).

"***PWA Cure Liability***" means:

(a) any amounts (including interest) payable to any Laborer pursuant to the PWA Guidance and Code Sections 48(a)(10)(B) or 48(a)(11) (including amounts payable under rules similar to the rules of such Code sections that are payable pursuant to Code Sections 48E(d)(3) and 48E(d)(4));

(b) any amounts (including interest and penalties) payable to the Secretary of the Treasury, the IRS, or any other Authority pursuant to the PWA Guidance and Code Sections 48(a)(10)(B) or 48(a)(11) (including amounts payable under rules similar to the rules of such Code sections that are payable pursuant to Code Sections 48E(d)(3) and 48E(d)(4)); and

(c) any costs or expenses incurred (including, for clarity, by Buyer) in connection with (i) identifying the applicable Laborers described in clause (a), and (ii) paying and reporting the amounts described in clauses (a) and (b),

in each case, as necessary to cure any failure of Seller or any PWA Subcontractor to satisfy the PWA Requirements in accordance with applicable PWA Guidance.

"***PWA Guidance***" means (i) the final Treasury Regulations released in Treasury Decision 9998 (89 Fed. Reg. 53184), and (ii) any guidance or any proposed, temporary or final regulations issued by the U.S. Department of the Treasury, the IRS, the DOL or any other applicable Authority interpreting or impacting the requirements under Code Sections 48(a)(10), 48(a)(11), 48E(d)(3) and 48E(d)(4), as applicable.

"***PWA Outside Date***" means [redacted]

"***PWA Requirements***" means with respect to any ITC Qualified Facility, the requirements under Code Sections 48(a)(10) and 48(a)(11) (and Code Sections 48E(d)(3) and 48E(d)(4)) and any PWA Guidance.

"***PWA Site***" shall mean the Site or any other location considered a site of the work for purposes of the PWA Guidance, including any "locality" of the facility within the meaning of Treasury Regulation Section 1.45-7(d)(7) (as such meaning may be amended by any PWA Guidance).

"***PWA Subcontractor***" means any direct or indirect "contractor" (within the meaning of Treasury Regulation Section 1.45-7(d)(4), as such meaning may be amended by any PWA Guidance) or "subcontractor" (within the meaning of Treasury Regulation Section 1.45-7(d)(9), as such meaning may be amended by any PWA Guidance), of any tier, of Seller, any Contractor or any Subcontractor.

"***Qualified Apprentice***" means "qualified apprentice" within the meaning of Treasury Regulation Section 1.45-8(g)(8) (as such meaning may be amended by any PWA Guidance).

"***Ratio Requirement***" is defined in Section 3.21(d).

"***Real Property***" means the Property, the Facilities (to the extent the same are deemed to be real property by the law of the jurisdiction in which such Facilities are located), and any other real property interests and rights that are necessary for the development, construction, installation, interconnection, ownership, operation and maintenance of the Project.

"***Release***" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, depositing, injecting, escaping, leaching, dumping, migrating or disposing into the environment.

"***Reports***" is defined in Section 5.19.

"***Representative***" means, with respect to any Person, any officer, director, employee, principal, attorney-in-fact, agent, professional advisor, consultant or other representative of such Person.

"***Requested Permit Applications***" is defined in Section 5.14(a).

[redacted]

"***Required FERC Approvals***" means an order or orders issued by FERC (i) accepting the Interconnection Agreement; provided, however, that if the Transmission Provider has determined that either such agreement is not required to be filed with FERC pursuant to 18 C.F.R §35.1(g), then a FERC order for such agreement shall not be considered a Required FERC Approval, and (ii) approving the Shared Facilities Agreement.

"***Required Insurance Policies***" has the meaning set forth in Section 3.14.

"***S&P***" means Standard & Poor's Global Ratings Group, or a successor (if any).

"***Schedule B Exceptions***" means the recorded exceptions to title as noted in the Title Reports and/or Updated Title Reports, which are not otherwise excluded from the scope of Permitted Encumbrances pursuant to the definition of the same or any other express provision of this Agreement.

"***Schedules***" means all schedules expressly contemplated in this Agreement, including those to be delivered as of the Execution Date.

"***Scope of Work and Specifications***" means the Scope of Work and Specifications set forth in Exhibit M.

"***SC Punch List***" means the list of SC Punch List Items. If the Parties are unable to agree upon whether an item should be included in the SC Punch List, the Independent Engineer shall make such determination.

"***SC Punch List Holdback Amount***" means [redacted] of the amount sufficient to pay the costs of completing the SC Punch List, as agreed by the Parties, or, if the Parties are unable to agree upon such amount, as determined by the Independent Engineer, which amount, in any event, shall not be less than the sum of all amounts owed to the counterparties to the Major Project Documents but that remain unpaid as of the Substantial Completion Payment Date, as reasonably agreed to by the Parties.

"***SC Punch List Holdback Release***" means with respect to any SC Punch List Item that has been completed, an amount in dollars equal to the portion of the SC Punch List Holdback Amount applicable to such SC Punch List Item, less any amount paid by Buyer or the Company to the applicable Contractor with respect to such SC Punch List Item pursuant to the applicable Major Project Document. For the avoidance of doubt, the SC Punch List Holdback Release for a completed SC Punch List Item shall be equal to [redacted] of the amount withheld to pay the costs of completing such SC Punch List Item.

"***SC Punch List Items***" means each item of Work that (a) Seller or Buyer identifies as requiring completion or containing defects that is associated with, and were intended to have been completed in connection with Substantial Completion, (b) does not preclude the Facilities or any portion thereof from operating or functioning, (c) does not affect the operability or mechanical or

electrical integrity of the Facilities and (d) does not create a safety risk for any Person to the extent such items have not been completed as of the Substantial Completion Payment Date.

"***Seller***" is defined in the introductory paragraph of this Agreement.

"***Seller Confidential Information***" is defined in Section 9.3(a).

"***Seller Consents***" is defined in Section 5.4.

"***Seller Domestic Content Compliance Certificate (Project MPC)***" means a Seller Domestic Content Compliance Certificate (Project MPC) substantially in the form of Exhibit CC-3.

"***Seller Domestic Content Compliance Certificate (Steel)***" means a Seller Domestic Content Compliance Certificate (Steel) substantially in the form of Exhibit CC-1.

"***Seller Excusable Event***" means:

(a) a Buyer-Caused Delay;

(b) a delay in the Work caused by an event of Force Majeure; or

[redacted]

"***Seller Excusable Event Notice***" is defined in Section 3.12(e).

"***Seller Indemnified Parties***" is defined in Section 10.2(b).

"***Seller Indemnifying Party***" is defined in Section 10.2(a).

"***Seller Mechanical Completion Domestic Content Compliance Certificate***" means a Seller Mechanical Completion Domestic Content Compliance Certificate substantially in the form of Exhibit CC-5.

"***Seller Mechanical Completion PWA Compliance Certificate***" means a Seller Mechanical Completion PWA Compliance Certificate substantially in the form of Exhibit BB-2.

"***Seller Parent***" means [redacted]

"***Seller Parent Guaranty***" means the Guaranty of Seller Parent in the form attached as Exhibit N.

"***Seller Parent Guaranty Default***" means the occurrence of any of the following events:

a) the Seller Parent disaffirms, disclaims, repudiates, or rejects in whole or in part, or challenges the validity of, the Seller Parent Guaranty;

b) the Seller Parent fails to satisfy the Investment Grade Requirements for a period of [redacted]

c) the Seller Parent Guaranty ceases to be in full force and effect in accordance with its terms;

d) any bankruptcy or event analogous to a bankruptcy (i.e., receivership, assignment for the benefit of creditors, etc.) with respect to the Seller Parent;

e) the Seller Parent fails to honor a drawing under the Seller Parent Guaranty in accordance with its terms; or

f) the Seller Parent fails to comply with or perform its obligations under the Seller Parent Guaranty in accordance with its terms and such failure continues after the lapse of any applicable grace period.

"***Seller PWA Compliance Certificate***" means a Seller PWA Compliance Certificate substantially in the form of Exhibit BB-1.

"***Seller Substantial Completion PWA Compliance Certificate***" means a Seller Substantial Completion PWA Compliance Certificate substantially in the form of Exhibit BB-4.

"***Seller Start of Construction Certificate (Closing Date)***" means the certificate attached hereto as Exhibit I-2, to be delivered by Seller to Buyer as of the Closing Date, updated (to the extent reasonably satisfactory to Buyer) to reflect true and accurate facts as of the Closing Date.

"***Seller Start of Construction Certificate (Execution Date)***" means the certificate attached hereto as Exhibit I-1, to be delivered by Seller to Buyer as of the Execution Date.

"***Seller Start of Construction Certificate (NTP Date)***" means the certificate attached hereto as Exhibit I-3, to be delivered by Seller to Buyer as of the Notice to Proceed Date, updated (to the extent reasonably satisfactory to Buyer) to reflect true and accurate facts as of the Notice to Proceed Date.

"***Seller's Fundamental Representations***" means the representations and warranties contained in [redacted]

"***Seller's Knowledge***" means the actual knowledge of any of the individuals listed on Schedule 1.1(d) after reasonable inquiry by such individuals of those employees of Seller or its applicable Affiliates who have primary responsibility for the subject matter of the representation and warranty or other matter involved.

"***Settlement Agreement***" is defined in Section 12.4(b).

[redacted]

"***Site***" means the site in Wythe County, Virginia, on which the Facilities (including the gen-tie line from the Project substation to the Point of Interconnection and the land covered by the Land Contracts therefor) will be constructed, which site shall be within the geographic boundaries of the Property.

"***Site Finalization Date***" means the date on which Seller demonstrates to Buyer's reasonable satisfaction that the requirements and conditions set forth in Sections 3.6(a), (b), (c)(i), (c)(ii), (c)(iii), (g), (h), and (i) have been satisfied by Seller, except for any such requirements and conditions that have been expressly waived by Buyer in writing.

"***Site Operating Plan***" means a document or set of documents setting forth the requirements for Buyer or the Company to operate and maintain the Project, including a physical description of the Project including drawings and pictures; a complete list of the EPC Contractor's supplier contacts; a description of the battery energy storage system component locations indicating string voltages and appropriate safety procedures; final as-built electrical and structural drawings, commissioning test reports required to comply with this Agreement and all applicable Laws; equipment serial numbers; equipment warranty information; equipment tagging, location and identification; operation, maintenance and safety policies and procedures for the Project and any PPE requirements; instructions for startup, shutdown, operation and maintenance of all material equipment and components included in the Project; 'ArcFlash' analysis and stickers; and a complete bill of materials for the power & control building.

"***Site Plan***" means that certain site plan layout for the Facilities reflected in the Preliminary Survey.

"***SOC Date***" is defined in Section 5.20(cc).

"Straddle Period" means any Tax period that begins on or before the Closing Date and ends after the Closing Date.

"***Subcontractor***" means any vendor, supplier, consultant, or subcontractor, of any tier, materialman, professional, laborer or other Person providing materials, equipment or services, directly or indirectly, to Contractor in connection with the performance of the Work.

"***Subcontractor Domestic Content Compliance Certificate (Project MPC)***" means a Subcontractor Domestic Content Compliance Certificate (Project MPC) substantially in the form of Exhibit CC-4.

"***Subcontractor Domestic Content Compliance Certificate (Steel)***" means a Subcontractor Domestic Content Compliance Certificate (Steel) substantially in the form of Exhibit CC-2.

"***Subcontractor PWA Compliance Certificate***" means a Subcontractor PWA Compliance Certificate substantially in the form of Exhibit BB-3.

"***Subject Project Document***" is defined in Section 3.4(e).

"***Subordination Agreements***" means written agreements provided by the holder of each monetary lien that (without such Subordination Agreement) would have priority in interest in any

portion of the real property that is subject to a Land Contract, which Subordination Agreement shall provide that such lien holder agrees to not disturb or terminate the rights of the Company under the applicable Land Contract in the event of such lien holder's enforcement of its lien.

"***Subsidiary***" means, with respect to any Person, another Person of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity, a majority of the membership, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons will be deemed to have a majority ownership interest in a limited liability company, partnership or association, or other business entity if such Person or Persons will be allocated a majority of limited liability company, partnership or association or other business entity gains or losses or will be or control any managing member or general partner of such limited liability company, partnership, association or other business entity.

"***Substantial Completion***" is defined in Exhibit O.

"***Substantial Completion Certificate***" means a certificate in the form attached hereto as Exhibit E-2 issued by the EPC Contractor and Seller certifying as to the satisfaction or achievement of Substantial Completion.

"***Substantial Completion Date***" means the date on which the Project shall have achieved Substantial Completion and the Substantial Completion Certificate with respect thereto shall have been accepted by Buyer in accordance with Exhibit O.

"***Substantial Completion Payment***" means the following amount in dollars, which will not, in any event, be less than zero dollars:

(a) [redacted] minus

(b) the sum of

(i) the SC Punch List Holdback Amount, if any,

(ii) the Delay Liquidated Damages, if any, and

(iii) any Known Breach Escrow Amount not previously withheld from the Closing Payment, if applicable.

"***Substantial Completion Payment Date***" means the date on which the following conditions precedent have been satisfied or waived by Buyer:

(a) Covenants of Seller. Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller after the Closing and before the Substantial Completion Payment Date other than for: (i) any breach that will not create

a material liability for the Company, (ii) any breach that cannot be cured, in which case Buyer may assert an indemnity claim hereunder; or (iii) for matters that Seller has confirmed in writing, the liability for which Seller has agreed to allow Buyer to deduct from the Substantial Completion Payment Date; and Seller shall have delivered to Buyer a certificate executed by an authorized representative of Seller, certifying as to the foregoing.

(b) Company Permits. Seller shall have, or caused the Company to have, obtained all of the Substantial Completion Permits (if any), and all such Substantial Completion Permits shall have either been obtained in the name of the Company or validly assigned to the Company in each case in accordance with applicable Laws, and all such Substantial Completion Permits shall be final, nonappealable and in full force and effect.

(c) Substantial Completion. The Substantial Completion Date shall have occurred.

(d) Required Credit Support. The Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall not have occurred and be continuing a Seller Parent Guaranty Default.

(e) Major Project Document Estoppels. Seller shall have delivered to Buyer not later than [redacted] prior to the Substantial Completion Payment Date the proposed final form of Major Project Document Estoppels, and Seller shall have delivered to Buyer the agreed form of executed Major Project Document Estoppels, which shall be dated as of the Substantial Completion Payment Date.

(f) SC Punch List. Seller shall have delivered to Buyer, and Buyer shall have approved, the SC Punch List, such approval not to be unreasonably withheld.

"***Substantial Completion Permits***" is defined in Section 5.14(a).

"***Survey***" means an ALTA survey of the Real Property prepared by the Surveyor, who shall be licensed in the state in which the Real Property is located, prepared in accordance with the 2021 ALTA/NSPS minimum standard detail requirements, including Table A items 1 (controlling major section corners only), 3, 4, 6(b), 7(a) with respect to the Project substation and O&M Building, 8, 11(a) (visible evidence and utility one-call data the surveyor will request and integrate), 13, 16, 17, 18 and 19, that is certified to Buyer, Company, and Title Company and that includes and plots to the extent possible the location of all matters set forth in the Title Reports and Updated Title Reports, as the case may be (and in the Updated Survey Sheet(s), all Permitted Encumbrances to the extent such Permitted Encumbrances are plottable) and all matters identified on the Site Plan (and in the As-Built Survey delivered pursuant to Section 9.15, all as-built improvements and Facilities, whether above ground or underground, in form and substance reasonably satisfactory to Buyer.

"***Surveyor***" means Timmons Group, or a replacement thereto selected by Seller and reasonably acceptable to Buyer.

"**Tangible Net Assets**" means, [redacted]

"***Tax Authority***" means the IRS and any other domestic or foreign Authority responsible for the imposition and/or administration of any Taxes.

"***Tax Contest***" is defined in Section 9.4(a).

"***Tax Return***" means any report, form, claim for refund, return, declaration, statement or other information (including any amendments) supplied or required to be supplied to any Tax Authority with respect to Taxes, including information returns, any amendments thereof or schedule or attachment thereto, including any such document prepared on a consolidated, combined or unitary basis and also including any Schedule or attachment thereto, and including any amendment thereof.

"***Taxes***" means all federal, state, local, foreign and other net income, gross income, estimated, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, levied and pending assessments, escheat, unclaimed property, windfall profits, value added, customs duties, capital gain, social security, royalty, documentary or other taxes, fees, assessments, duties or charges in the nature of a tax, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and the term "***Tax***" means any one of the foregoing Taxes.

"***Technical Dispute***" is defined in Section 12.4(e).

"***Threshold Amount***" means [redacted]

"***Title Company***" means [redacted] or another nationally recognized title insurance company experienced with battery energy storage projects and reasonably acceptable to Buyer.

"***Title Objections***" has the meaning set forth in Section 3.6(a).

"***Title Report(s)***" means a standard form ALTA title commitment or pro forma owner's policy of title insurance, including the Preliminary Title Report, issued by the Title Company with respect to the Real Property.

[redacted]

"***Transfer Taxes***" means all transfer, sales, use, goods and services, value added, documentary, stamp duty, recording, transfer and conveyance Taxes and other similar Taxes, duties, fees or charges.

"***Transmission Owner***" means American Electric Power Service Corporation, its subsidiaries or its successors.

"***Transmission Provider***" means PJM Interconnection, LLC or its successors.

"***Transmission Provider Delay***" means any delay to the extent caused by Transmission Provider solely to the extent such delay results in a delay in the availability of backfeed for the Project beyond [redacted] and results in a demonstrable delay in the Seller's ability to achieve Mechanical Completion or Substantial Completion, and only to the extent such delay is not the result of the negligence of, or a breach by, Seller or the Company's contractors under this Agreement or any Contract.

"***Updated AEP Supplier Code of Conduct***" is defined in the definition of AEP Supplier Code of Conduct.

"***Updated Survey***" means the from time to time updates to the Preliminary Survey reflecting changes to the Property and Land Contracts, the then current Site Plan, Updated Title Reports, and any other updates to the Preliminary Survey pursuant to Section 3.6(d) and prior to Closing.

"***Updated Survey Sheet(s)***" means the updates to certain Preliminary Survey sheets as reasonably necessary to reflect resolution of material survey concern(s) identified by Buyer within its Title Objections or Updated Title Objections (e.g., to confirm a setback or encroachment matter and not to address a cleanup survey comment), which concern(s) cannot otherwise be addressed to Buyer's reasonable satisfaction by other documentation or information provided by Seller prior to such concern(s) being addressed or resolved, as the case may be, in the As-Built Survey.

"***Updated Title Objections***" has the meaning set forth in Section 3.6(d).

"***Updated Title Reports***" means the from time to time updates to the Preliminary Title Reports issued by the Title Company reflecting changes to the Property and Land Contracts, Subordination Agreements, Crossing Agreements, and any other updates to the Preliminary Title Reports pursuant to Section 3.6(d) and prior to Closing.

[redacted]

"***Wages***" means "wages" within the meaning of Treasury Regulation Section 1.45-7(d)(12) (as such meaning may be amended by any PWA Guidance).

"***Wildlife Restrictions***" means (i) any requirement to avoid, minimize or mitigate impacts to any wildlife species adopted by the Company for the Project, or imposed on the Company or the Project by any Authority with jurisdiction over wildlife resources, that imposes obligations with respect to or in any way restricts the Company's ability to operate the Facilities; and (ii) any limitation or restriction on the Company's ability to operate the Facilities to avoid, minimize or mitigate impacts to any wildlife species that could reasonably be expected to be voluntarily adopted or implemented by a prudent operator of an energy storage facility similar to the Project and in a similar location, and in any event including voluntary compliance with non-binding guidance or suggestions published or issued by any Authority.

"***Work***" means all work for the management of the construction of the Project, the design, development, engineering, procurement, permitting, construction, installing, interconnection,

testing, commissioning, start-up and turnover of the Facilities, which work and services shall include all aspects of the work described in the Scope of Work and Specifications and the provision of all materials, equipment, machinery, tools, labor, transportation, administration and other actions, services and items required to complete and deliver the fully assembled, integrated, installed, tested and operational Facilities and the Project, all in accordance with the Material Contracts, the Property Agreements, the Company Permits, applicable Law, Prudent Industry Practices and this Agreement.

Section 1.2 Rules of Interpretation. Unless otherwise expressly provided or unless required by the context in which any term appears:

(a) the singular shall include the plural and the plural shall include the singular;

(b) references to "Articles," "Sections," "Schedules," or "Exhibits" (if any) shall be to articles, sections, schedules or exhibits (if any) of this Agreement, as the same may be amended, modified, supplemented or replaced pursuant to the terms hereof from time to time;

(c) all references to a particular entity shall include a reference to such entity's successors and permitted assigns;

(d) the words "herein," "hereof and "hereunder" shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement;

(e) all accounting terms not specifically defined herein shall be construed in accordance with GAAP except as it may relate to Seller, in which case accounting terms shall be construed in accordance with IFRS.

(f) references to this Agreement shall include a reference to all Schedules and Exhibits hereto as the same may be amended, modified, supplemented or replaced from time to time;

(g) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(h) the use of the word "including" in this Agreement to refer to specific examples shall be construed to mean "including, without limitation" or "including but not limited to" and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(i) relative to the determination of any period of time, "from" means "including and after," "to" means "to but excluding" and "through" means "through and including;"

(j) references to applicable Laws shall mean a reference to such applicable Laws as the same may be amended, modified, supplemented or restated and be in effect from time to time, including rules and regulations promulgated thereunder;

(k) unless otherwise specified to the contrary, the word "or" shall be inclusive and shall have the meaning conveyed by "and/or";

(l) whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified;

(m) any date specified for action that is not a Business Day shall mean the first Business Day after such date;

(n) a reference to any Contract is to that Contract as amended, novated, supplemented or replaced from time to time;

(o) terms used in this Agreement with respect to the PWA Requirements that are not otherwise defined herein but are used or defined in Section 48(a)(10), 48(a)(11), 48E(d)(3), 48E(d)(4), 45(b)(7), 45(b)(8), 45Y(g)(9), or 45Y(g)(10) of the Code or the PWA Guidance, as applicable, shall have the meanings given to such terms in such Code sections or the PWA Guidance;

(p) terms used in this Agreement with respect to the Domestic Content Requirements that are not otherwise defined herein but are used or defined in Section 48(a)(12), 48E(a)(3)(B), 45(b)(9), or 45Y(g)(11) of the Code or the Domestic Content Guidance, as applicable, shall have the meanings given to such terms in such Code sections or the Domestic Content Guidance;

(q) all references in this Agreement to "dollars" or "$" shall, in each case, be deemed to refer to United States currency unless otherwise specifically provided; and

(r) the phrase "to the extent" means "the degree by which" and not "if".

The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

ARTICLE II
PURCHASE AND SALE OF PURCHASED INTERESTS

Section 2.1 Purchase and Sale of Purchased Interests. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date Seller shall sell, convey, transfer, assign, and deliver to Buyer, free and clear of all Encumbrances, and Buyer shall purchase from Seller, the Purchased Interests, for the consideration specified in Section 2.2.

Section 2.2 Purchase Price. Upon the terms and subject to the conditions set forth in this Agreement, Buyer shall make payment to Seller by wire transfer of immediately available funds to the accounts specified in writing by Seller for such purpose, as follows:

(a) Closing Payment. On the Closing Date, Buyer shall pay the Closing Payment to Seller.

(b) Substantial Completion Payment. On the Substantial Completion Payment Date, Buyer shall pay the Substantial Completion Payment to Seller.

(c) SC Punch List Holdback Release Payments. Within [redacted] following any calendar quarter after the Substantial Completion Payment Date in which the completion of an SC Punch List Item occurs, Buyer shall pay Seller an amount equal to the SC Punch List Holdback Release for such SC Punch List Item.

(d) Final Completion Payment. Within [redacted] following the Final Completion Date, Buyer shall pay the Final Completion Payment to Seller. Any portion of the SC Punch List Holdback Amount that is not eligible to be released on such date shall be retained by Buyer.

Section 2.3 Mechanics of Closing. The consummation of the purchase and sale of the Purchased Interests (the "***Closing***") will take place telephonically and/or electronically at a mutually acceptable date and time within [redacted] following the satisfaction (or waiver by the applicable Party) of the conditions set forth in Section 7.1 and Section 8.1 (other than those conditions that by their nature are to be satisfied at the Closing), or at such other place and on such other date and time as may be mutually agreed by Buyer and Seller (the date on which the Closing actually occurs being referred to as the "***Closing Date***"). For the avoidance of doubt the Parties agree that (i) the conditions set forth in Section 7.1 are for the benefit of Buyer only and Buyer may compel Closing upon the satisfaction (or waiver by Seller) of the conditions set forth in Section 8.1 whether or not the conditions set forth in Section 7.1 have been satisfied, and (ii) that the conditions set forth in Section 8.1 are for the benefit of Seller only and Seller may compel Closing upon the satisfaction (or waiver by Buyer) of the conditions set forth in Section 7.1 whether or not the conditions set forth in Section 8.1 have been satisfied. Any Closing shall be effective as of 12:01 AM prevailing Eastern Time on the Closing Date.

Section 2.4 Closing; Costs.

(a) Expenses. Except as otherwise specified herein, each Party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Agreement, any Ancillary Agreement and to any action taken by such Party in preparation, negotiation, execution and performance of this Agreement and the Ancillary Agreements, including all expenses and costs incurred to obtain approvals required by such Party from Authorities. To the extent any such fees or expenses relating to the period prior to Closing are required to be paid by the Company after the Closing, Seller shall, without duplication, pay such fees or expenses directly on behalf of the Company or reimburse the Company within [redacted] of written notice to Seller.

(b) Prorations. All rent, insurance premiums and other costs and expenses of the Company, other than Taxes that are addressed in Section 9.4(b), but including (for the avoidance of doubt) any pre-Closing payments in lieu of Taxes, relating to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance and operation of the Project, including any payments due and owing under any Material Contract, Property Agreement or Permit shall be prorated between Seller and Buyer as of the Closing Date, so that Seller is responsible for the prorated amounts incurred during, or otherwise relating to, the period of time prior to the Closing Date, and Buyer

is responsible for the prorated amounts incurred during, or otherwise relating to, the period of time from and after the Closing Date; provided, however, that in no event shall this Section 2.4 limit Seller's liability for Excluded Liabilities or for costs and expenses under Section 3.1(c). Notwithstanding anything to the contrary in the foregoing sentence, revenues from operation of the Project, including sales of test power, if sold notwithstanding the prohibition in Section 3.13, shall be the property of the Company, shall not be distributed out of the Company prior to the completion of Closing.

(c) Independent Accountant and Independent Engineer Costs. Buyer shall pay [redacted] and Seller shall pay [redacted] of any fees and expenses payable to the Independent Accountant for its services described in Section 2.5(c) or the Independent Engineer for its services described in this Agreement, including in any Exhibit hereto. In the event that one Party pays for [redacted] portion of any fees and expenses payable to the Independent Accountant or the Independent Engineer, then that Party shall invoice the other Party in writing and such invoice shall be payable within [redacted] of receipt of such invoice.

(d) Real Property; Title and Survey. On or prior to the Closing Date, Seller shall pay (i) Title Company and Surveyor (as applicable) for its respective fees for the Preliminary Title Report, all Title Reports and Updated Title Reports (including amendments, updates and supplements thereto), the Preliminary Survey, and Updated Surveys (including amendments, updates and supplements thereto) and (ii) all recording charges and expenses for recording any Land Contracts (or amendments or memoranda thereof), Subordination Agreements (if applicable) and Crossing Agreements prior to the Closing Date. On or prior to the Closing Date, Seller shall also pay Title Company for all premiums, fees and related charges for the Title Policy and the Closing Title Endorsements, as well as for all premiums, fees and related charges in connection with any bringdown of or modifications to the Title Policy or issuance of the Date Down Endorsement in connection with any As-Built Defects raised by the As-Built Survey, or the Assets Distribution to Buyer or Merger; provided, however that notwithstanding anything to the contrary set forth in this Agreement, Buyer and Seller shall each pay one-half of the cost of: (i) the premium for the Date Down Endorsement to be provided at, or pursuant to Section 9.15(a), after, Closing; and (ii) any non-imputation endorsement.

Section 2.5 Post-Closing.

(a) Post-Closing Statement. Within [redacted] after the Substantial Completion Date, Buyer will prepare and deliver to Seller a closing statement (the "***Post-Closing Statement***") of the Company as of the close of business on the Closing Date setting forth Buyer's calculation of (i) proration amounts payable by either Party pursuant to Section 2.4(b), and (ii) any Excluded Liabilities to Buyer's Knowledge, as of the preparation of the Post-Closing Statement. Seller will provide Buyer such information as Buyer may reasonably request in connection with its preparation of the Post-Closing Statement. If the amounts payable to Seller under clause (i) above exceeds the aggregate amount of the amounts payable to Buyer under clause (i) above plus such Excluded Liabilities, then Buyer will pay to Seller an amount equal to the excess, and if the aggregate amount of the amounts payable to Buyer under clause (i) above plus such Excluded Liabilities exceeds the amounts payable to Seller under clause (i) above, then Seller will pay to Buyer an amount equal to the excess (in either case, the "***Post-Closing Adjustment***").

(b) Payment of Adjustments. Unless Seller objects to the amounts set forth in the Post-Closing Statement in accordance with Section 2.5(c), payment of the Post-Closing Adjustment will be made within [redacted] after Seller's receipt of the Post-Closing Statement.

(c) Adjustment Disputes. Within [redacted] after delivery of the Post-Closing Statement by Buyer to Seller, Seller may object in writing to the amounts set forth in the Post-Closing Statement, stating in reasonable detail its objections and providing its good-faith calculation of the objectionable amount or amounts. Buyer will provide Seller such information as Seller may reasonably request in connection with its review of the Post-Closing Statement. If Seller fails to deliver notice of its objections within the [redacted] period, Seller will be deemed to have accepted Buyer's calculation set forth in the Post-Closing Statement. If Seller objects to any amounts set forth in the Post-Closing Statement, the Parties will attempt to resolve the dispute by negotiation in good faith. If the Parties are unable to resolve the dispute within [redacted] of the date of delivery of Seller's objection in writing, then either Party may refer the dispute to the Independent Accountant, and the Independent Accountant will settle the dispute as soon as practicable. The determination of the Independent Accountant will be final and binding on the Parties. The Independent Accountant will resolve any such objections and determine, in accordance with the criteria specified in the first sentence of Section 2.5(a) (however, such determination will not be limited by Buyer's Knowledge), the amounts to be included in the Post-Closing Statement. Each Party will provide the Independent Accountant with a definitive statement of the position of such Party with respect to each unresolved objection. Buyer will provide the Independent Accountant access to the books and records relating to the Project or the Company. The Independent Accountant will limit its review solely to matters in dispute and have [redacted] to carry out a review of the unresolved objections and prepare a written statement of its determination regarding each unresolved objection. The determination of the Independent Accountant will be set forth in writing and will be conclusive and binding upon the Parties. Buyer will revise the Post-Closing Statement, as appropriate to reflect the resolution of any objections pursuant to this Section 2.5(c). Notwithstanding anything to the contrary in this Section 2.5(c), either Party may commence the dispute resolution procedures under Sections 12.4(b) and 12.5 with respect to any dispute over the existence or amount of any Excluded Liability, in which case the Independent Accountant shall not resolve such dispute.

(d) Final Payment. Once any disputes in accordance with Section 2.5(c) have been resolved between the Parties or determined by the Independent Accountant, then the amount due pursuant to the Post-Closing Statement will be paid within [redacted] of such resolution to the Party entitled to receive it, together with interest at the Interest Rate from the Closing Date to the date of payment of the Post-Closing Adjustment.

Section 2.6 Purchase Price Allocation. No later than [redacted] after the final determination of the Post-Closing Adjustment pursuant to Section 2.5, Buyer shall deliver to Seller a schedule (the "***Purchase Price Allocation Schedule***") allocating the Purchase Price paid at Closing among the assets of the Company that complies with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Seller shall have [redacted] to review the Purchase Price Allocation Schedule. If Seller does not notify Buyer in writing of any reasonable comments within [redacted] or if Seller and Buyer resolve all such comments, the Parties agree that the Purchase Price Allocation Schedule, as finally determined, shall be binding on the

Parties for all Tax purposes (including the filing of IRS Form 8594), and no Party shall take any position for Tax purposes inconsistent or contrary to the Purchase Price Allocation Schedule unless required to do so by Law. If prior to the end of such [redacted] Buyer and Seller are unable to so agree on the Purchase Price Allocation Schedule, either Party may submit the matter to the Independent Accountant for final resolution. [redacted]

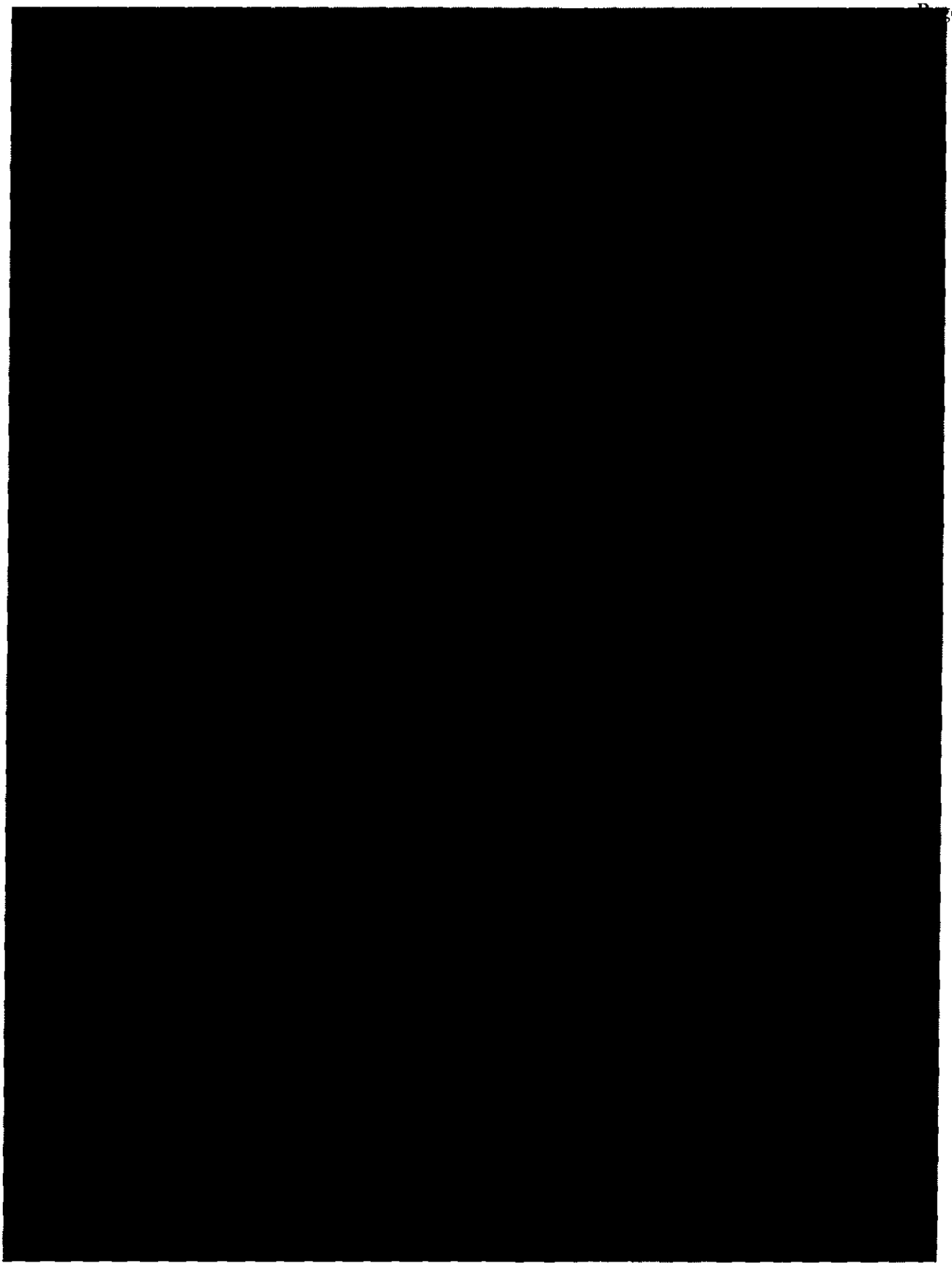
Section 2.7 Withholding Rights. Notwithstanding any provision hereof to the contrary, Buyer and the Company shall be entitled to deduct and withhold from any consideration otherwise payable under the terms of this Agreement such amounts as it is required to deduct and withhold pursuant to any Law, including those related to or regarding Taxes; provided, however, that Buyer shall provide Seller reasonably prompt advance written notice of any intent to withhold and shall cooperate with Seller as reasonably requested to reduce or eliminate any required withholding (in each case, except to the extent such withholding is required as a result of Seller's failure to deliver the item described in Section 7.1(a)(ii)(B)). To the extent that amounts are so withheld under any provision of this Agreement, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Persons in respect of which such deduction and withholding was made.

Section 2.8 [Reserved].

Section 2.9 Buyer's Agent. Buyer hereby appoints Buyer's Agent, an Affiliate of Buyer, to serve as its representative and agent for all purposes in connection with this Agreement and the Ancillary Agreements including: (i) the waiver and amendment of the rights and duties of Buyer under this Agreement and the Ancillary Agreements; (ii) the giving and receiving of notices and requests hereunder; (iii) the determination of the adjustments in Article II and the resolution of any dispute regarding such adjustments; (iv) the handling (including the election of any applicable Buyer remedies), negotiation, and resolution of any accounting matters; and (v) doing and receiving all things provided for concerning "Buyer" in this Agreement and the Ancillary Agreements and making all elections of Buyer under this Agreement and the Ancillary Agreements. Seller shall be entitled and obligated to act in reliance upon any and all acts and things done and performed by or agreements made with respect to all matters dealt with in this Agreement and the Ancillary Agreements by the Buyer Agent on behalf of Buyer, and the foregoing shall be binding on Buyer, as fully and effectively as though Buyer had done, performed, made or executed the same.

Section 2.10 Payments Generally. All amounts required to be calculated and paid pursuant to this Agreement, including this Article II shall be calculated and, if applicable, adjusted, pursuant to the terms of this Agreement, and, if applicable, the definition of each such amount, in each case, without duplication.

[redacted]



[redacted]

ARTICLE III
DEVELOPMENT AND CONSTRUCTION COVENANTS

Section 3.1 Development and Construction Generally.

(a) Seller shall (i) cause the Project to be designed, developed, engineered, procured, permitted, constructed, installed, interconnected, tested, commissioned, owned, operated and maintained in accordance with this Agreement, including the Scope of Work and Specifications, the Material Contracts, Property Agreements and Prudent Industry Practices and in compliance with all applicable Laws and Permits, (ii) use commercially reasonable efforts to cause the Project to achieve Mechanical Completion by the Outside Date and (iii) cause the Project to achieve Substantial Completion by the Guaranteed Substantial Completion Date. Buyer acknowledges that the generation tie-line for the Project and other shared facilities as contemplated in the Shared Facilities Agreement have been constructed and commissioned, and therefore Buyer does not have any rights under this Agreement to approve such matters; provided, however that if the stormwater basin needs to be modified for permitting or capacity reasons, then such modifications shall be subject to Buyer's approval as set forth herein.

(b) For all purposes of this Agreement, the date of achievement of a Completion Milestone shall be the date stated in the Completion Certificate delivered by Seller as to which such Completion Milestone is either accepted by Buyer in accordance with Exhibit O or the date determined pursuant to the dispute resolution provisions set forth in Section 12.4(e) that such Completion Milestone was achieved (which date shall not be earlier than the date such certificate was delivered to Buyer). Buyer shall not unreasonably withhold, delay or condition any approval of a Completion Milestone.

(c) Subject only to the adjustments to the Purchase Price as set forth in Sections 3.19 and 3.20, Seller shall be responsible for any and all costs, expenses and Liabilities associated with designing, developing, engineering, procuring, constructing, installing, interconnecting, testing, commissioning, and financing the Project through Final Completion in accordance with the requirements of this Agreement through Final Completion, or associated with operating and maintaining the Project prior to the Closing Date, including any and all Liabilities with respect to the foregoing incurred under the Material Contracts, the Property Agreements or the Company Permits and any and all Financing Costs. For the avoidance of doubt and in addition to the foregoing Seller shall be solely responsible for any and all costs and expenses required for the Project to achieve Mechanical Completion, Substantial Completion and Final Completion.

(d) Seller shall cause all Contracts (other than subcontracts entered into by a contractor that is a party to a Contract with the Company with respect to Work to be performed thereunder) with respect to the supply or performance of any portion of the Work to be entered into by the Company (or an Affiliate and then assigned to the Company) with the contractor, vendor, supplier or other Person supplying or performing such Work.

Section 3.2 Communications; Monthly Report; Buyer Site Representative.

(a) Seller shall regularly communicate and consult with Buyer regarding the continuing design, development, engineering, procuring, permitting, construction, installation, interconnection, testing, commissioning and financing of the Project, and Seller shall in good faith consider Buyer's input and comment with respect to any matters that may arise in respect of such continued development. In furtherance of the foregoing, Seller shall furnish to Buyer a monthly development and construction report in the form attached hereto as Exhibit P (the "***Monthly Report***"). Seller shall notify Buyer of any event of default under any of the Material Contracts or Property Agreements or any violation of any Company Permit or applicable Law within a reasonable time after Seller becoming aware of such default.

(b) Seller shall permit Buyer to designate an individual or individuals with appropriate qualifications as its representative at the Site ("***Buyer's Site Representative***") under this Agreement. Buyer shall designate Buyer's Site Representative within [redacted] after issuance of the Notice to Proceed. Buyer's Site Representative shall be permitted to observe, on behalf of Buyer, the performance of the Work at the Site as set forth in more detail in Section 3.4(b). Buyer may substitute Buyer's Site Representative with another qualified person at any time upon prior written notice to Seller.

Section 3.3 Other Seller Actions.

(a) Throughout the period prior to the Closing Date, Seller shall use commercially reasonable efforts to pursue, and shall cause the Company to use commercially reasonable efforts to pursue, Project activities including those necessary to satisfy all Project-related conditions to the Closing and to the achievement of Mechanical Completion, Substantial Completion and Final Completion (including the acquisition of Property not owned, held by easement or leased by the Company on the Execution Date necessary to cause the Company to own, hold by easement or lease Property covering the entire Site, including (i) fee ownership of the site for the Project substation and the O&M Facility, (ii) the Shared Facilities Agreement with [redacted] with respect to the gen-tie line, Interconnection Agreement and stormwater management and associated facilities, and any reciprocal stormwater management facilities easement agreement and (iii) in accordance with Section 3.6(a), any easements for any electric lines, including the gen-tie line from the Project substation to the Point of Interconnection, and all Interconnection facilities). Seller shall provide to Buyer, as promptly as practicable after receipt thereof and subject to Buyer's consent rights herein, complete and unredacted copies (except with respect to Property Agreements (including all exhibits, schedules, appendices and other attachments thereto) of any documents that are obtained, produced, generated or entered into by Seller or the Company in connection with the Project including the following:

(i) any Material Contracts, Property Agreements (which Property Agreements shall not be redacted) and all other contracts entered into by the Seller, Company or any of Seller's other Affiliates in connection with the design, development, engineering, procuring, permitting, construction, installation, interconnection, testing, commissioning, ownership, maintenance or operation of the Project or the acquisition of Property, and copies of any material written notices or other written communication delivered to or received from the other parties to the Material Contracts or Property Agreements that affect any such Material Contracts or Property Agreement;

(ii) any Permits obtained by the Company or on behalf of the Company that pertain to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning ownership, maintenance or operation of the Project;

(iii) any final or issued-for-construction design drawings, specifications and other material construction documents that define the characteristics of the Project; and

(iv) any factory audits, supporting studies, scheduling information, and civil, structural and electrical engineering information and documentation, for the Project or any equipment associated therewith.

In addition, Seller shall provide to Buyer, at the times specified on Schedule 3.3(a), the additional documents, data and information set forth on Schedule 3.3(a).

(b) Each of Buyer and Seller shall promptly notify the other of any Proceeding that is instituted or threatened against such Party (or, in the case of Seller, against Seller, Company, the Project or the Project Assets) to restrain, prohibit or otherwise challenge the legality of any of the transactions contemplated by this Agreement. Prior to Closing, Seller shall provide periodic updates to Buyer of new disclosures or changes in the then existing disclosure schedules to this Agreement as follows:

(i) Seller shall not be permitted to add, update, amend or supplement any disclosure schedule with respect to any development or matter occurring in, or relating to, any period on or prior to the Execution Date, or any matter caused by a breach or default by Seller or any Affiliate of Seller of any covenant or agreement in this Agreement or any Ancillary Document or applicable Law, or to correct errors in the disclosure schedules delivered on the Execution Date.

(ii) Seller may update any disclosure schedule or propose a new disclosure schedule to reflect any fact, event or circumstance arising after the Execution Date as a result of any nondiscretionary action that Seller is required to take in order to comply with its obligations under this Agreement, any matter for which Buyer has provided its consent, and any updated or new disclosure schedule that would not cause or result in an Adverse Effect. Any such updated or new disclosure schedule shall be deemed to have amended this Agreement and cured

any misrepresentation or breach of the Seller's representations or warranties that otherwise might have existed hereunder by reason of such fact, event or circumstance.

Section 3.4 Site Plan; Access Rights; Document Review and Approval; Reporting.

(a) Review of Site Plan. At least [redacted] prior to the anticipated Notice to Proceed Date, Seller shall deliver to Buyer the Site Plan (in both .kmz and .pdf formats) for Buyer's review and comment. The location of the Facilities on the Site Plan will be consistent with the Facilities location layout attached hereto as Schedule 3.4(a), and Buyer may not make comments to the Site Plan to the extent consistent therewith. Within [redacted] following its receipt of the Site Plan, Buyer shall provide any comments it may have thereon, and Seller and Buyer shall thereafter work together in good faith to resolve Buyer's comments such that Buyer approves the final Site Plan, such approval not to be unreasonably withheld, conditioned or delayed. If Buyer does not provide comments within such [redacted] period, then Buyer shall be deemed to have approved the Site Plan, and Buyer shall not be required to consider any comments or any comments other than those that are a result of material deviations from the proposed layout attached hereto as Schedule 3.4(a). Seller or the Company may revise the Site Plan prior to the Closing Date only with Buyer's prior written approval, not to be unreasonably withheld, conditioned or delayed.

(b) Inspection and Access Rights.

(i) Seller shall grant Buyer and Buyer's Representatives access to the Site, including areas within the Site where gen-tie and Interconnection work is performed, to observe and inspect all aspects of the Work, including design and construction drawings and specifications, all Site work, and all design, development, engineering, procuring, permitting, construction, installation, interconnection, testing and commissioning activities relating to the Project; provided, however, that Buyer and Buyer's Representatives shall not interfere with the Work. Such access rights for Buyer and Buyer's Representative shall be subject to Company's on-site safety and insurance requirements. Upon written request of Buyer, Seller shall use commercially reasonable efforts to cause the BESS/Inverter Supplier, and suppliers of other components and equipment with a cost in excess of [redacted] to grant Buyer and Buyer's Representatives access to their facilities to observe the manufacture and fabrication of components and to perform quality inspections.

(ii) Seller shall furnish for use of Buyer's Representatives suitable space for a construction trailer on the Site with standard utilities; provided that Buyer must provide the construction trailer.

(iii) Seller shall furnish or cause to be furnished to Buyer and its Representatives, at reasonable times and upon reasonable notice, such access, during normal business hours, as Buyer reasonably requests (A) to all business and operations of Seller, its Affiliates and the Company on the Site with respect to the Project, (B) to Seller's and its Affiliates' personnel involved with the Project or the

Site (and those of its and their Contractors and Subcontractors), (C) to participate in monthly (or other regularly scheduled) meetings with Contractors and Subcontractors involved with the Site and otherwise to observe, to the extent reasonably practicable, key discussions between Seller, or its Affiliates, and any third parties relating specifically to the Project or the Site, and (D) to all books and records and other information in the possession or control of Seller or any of its Affiliates with respect to the Project or the Site, including communications to or from any Authority respecting the Project.

(iv) Seller shall give Buyer's Site Representative at least 48 hours' notice that any material part of the Work relating to a foundation, the Project substation or below ground cable splices, will be covered up or put out of view and shall afford full opportunity for Buyer's Site Representative or its designee to inspect any part of such Work which is about to be covered up or put out of view and to examine foundations before any part of the Work is placed thereon within such 48 hour period. If Seller has not given such notice timely, at Buyer's request and explanation of why it believes that such covered up Work is deficient, Seller shall cause the Company to uncover any part of such Work or make openings in or through the same as Buyer's Site Representative may from time to time direct and to reinstate and repair such part, at Seller's expense. In addition, Seller shall cause the Company or the EPC Contractor to uncover any portion of the Work or make openings in or through the Work as Buyer's Site Representative may from time-to-time request only if Buyer's Site Representative was not provided the opportunity to inspect the subject Work prior to such Work being covered, and the Company shall reinstate and repair such portion of the Work. The cost of such uncovering, repair, reinstatement and re-covering shall be borne by Buyer unless the Scope of Work and Specifications with respect to the applicable portion of the Work have not been satisfied and such portion of the Work was not performed in accordance with this Agreement.

(v) The exercise by Buyer of any of its inspection rights shall not be deemed to be an approval, authorization or acceptance of any aspect of the Work by Buyer, a waiver of Buyer's rights under this Agreement or a waiver or assumption of any of Seller's obligations under this Agreement.

(vi) Buyer shall have the right to videotape, photograph or otherwise record spot footage of the Work or the Site and, if requested by Seller in writing, shall provide Seller with one copy of the same; provided, however, that Buyer agrees to reasonably coordinate with Seller and the relevant Contractors in carrying out its rights set forth in this Section 3.4(b)(vi).

(c) Technical Document Review. All material preliminary and detailed plans, drawings and specifications for major equipment and components prepared or issued for review by or for the Company or by or for Seller with respect to the Project and all construction documents prepared or issued for review by or for the Company or by or for Seller with respect to the Project shall be submitted to Buyer for review and comment to confirm the same are consistent with the Scope of Work and Specifications (simultaneously with the review of such documentation

conducted by the Company pursuant to the EPC Contract and the BESS/Inverter Supply Agreement) and before commencement of any fabrication, manufacture, assembly, packaging, shipment, construction, or installation with respect thereto. Buyer shall have [redacted] after the receipt of documents to provide comments thereon. If Buyer fails to provide comments within such [redacted] period, such failure shall be deemed a waiver of Buyer's rights to comment upon such documents pursuant to this Section 3.4(c). Review, comment and approval by Buyer shall not relieve Seller of any of its obligations hereunder or any of the Contractors' obligations under any Major Project Document.

(d) Site Operating Plan Review. At least [redacted] prior to the Closing Date, Seller shall submit to Buyer the Site Operating Plan for review and approval, such review and approval not to be unreasonably withheld or delayed. Buyer shall have [redacted] after the receipt of documents to provide comments thereon. If Buyer fails to provide comments within such [redacted], such failure shall be deemed a waiver of Buyer's right to comment upon said documents pursuant to this Section 3.4(d). Review, comment and approval by Buyer shall not relieve Seller of any of its obligations hereunder or any of the Contractors' obligations under any Major Project Document.

(e) Material Contract Review. From and after the Execution Date, Seller shall not, and shall cause the Company not to, enter into any new, or terminate, amend or modify any existing Material Contract except [redacted] or (z) as approved by Buyer in writing in advance, [redacted] (each a "***Subject Project Document***"); provided, however, that if after [redacted] of Buyer's receipt thereof, Buyer does not provide written notice of acceptance or rejection of any such new Material Contract or termination, amendment or modification of any existing Material Contract, Buyer's approval shall be deemed given with respect to the potential Material Contract or amendment or modification thereof covered by the request notice; provided, further, that Buyer's actual, not deemed, approval must be obtained for any termination of a Material Contract or entering into any Material Contract or amendment or modification thereof to the extent that such Material Contract that deviates from the applicable terms (if any) required by the applicable term sheet(s) or forms attached hereto or other provisions of this Agreement. If Seller receives any Buyer comments to a Subject Project Document before Buyer is deemed to have accepted the same pursuant to the preceding sentence, Seller shall use commercially reasonable efforts to negotiate with the applicable counterparty to incorporate such Buyer comments, and thereafter resubmit a revised draft of the Subject Project Document to Buyer. This process shall repeat until Buyer has approved (or is deemed to have approved), the Subject Project Document. If Buyer does not provide written notices of acceptance or rejection of any such revised Subject Project Document within [redacted] after receipt thereof, then Buyer shall be deemed to have accepted the same. Without limiting any timelines or other approval rights set forth in this Section 3.4(e), upon written request by Seller, Buyer will promptly confirm in writing whether it has approved a Material Contract, or agrees that a Material Contract has been deemed to be approved by Buyer, pursuant to this Section 3.4(e);

provided, however, that Seller acknowledges the scope of Buyer's review will be limited and Seller agrees and acknowledges that it remains responsible for ensuring that each Material Contract (including each Major Project Document) complies with all terms of this Agreement. Seller shall cause each Material Contract to be freely assignable, including by merger, to Buyer, as the anticipated parent entity of the Company, and shall notify Buyer of any proposed counterparty to such Material Contract that refuses to permit such assignment. Buyer's provision of comments on any Subject Project Document by email to the person that sent such Subject Project Document for review shall be sufficient notice of Buyer's rejection of and comments on such Subject Project Document and the formal notice requirements in Section 12.3 shall not apply.

(f) Property Agreement Review. From and after the Execution Date, Seller shall not, and shall cause the Company not to, enter into any new, or terminate, amend or modify any existing, Property Agreement except for any such new Property Agreement or termination, amendment or modification of any existing Property Agreement approved by Buyer in writing in advance, such approval not to be unreasonably withheld, conditioned or delayed if such termination, amendment or modification could not reasonably be expected to have an Adverse Effect; provided, however, that if Buyer does not provide written notice of acceptance or rejection of any such new Property Agreement or termination, amendment or modification of any Property Agreement within [redacted] after Buyer's receipt thereof, then Seller shall submit a written notice to Buyer requesting Buyer approve or reject such potential Property Agreement or termination, amendment or modification thereof (a "***Property Agreement Approval Request Notice***"), and, if Buyer does not approve or object to the potential Property Agreement or termination, amendment or modification within [redacted] after Buyer's receipt of the Property Agreement Approval Request Notice, then Buyer shall be deemed to have accepted the same.

(g) Accident Reporting. Seller shall promptly provide Buyer notice of any material emergencies and recordable safety incidents on the Site and as soon as practicable or available a report regarding such occurrence.

(h) Wildlife. Seller has conducted such wildlife studies with respect to the Site, the Facilities and the Project as required pursuant to applicable Law. Seller shall use its good faith efforts to utilize best practices to assess and avoid impacts to special status species. Seller shall provide to Buyer, promptly after issuance, a true and complete copy of any Wildlife Restrictions issued, adopted or implemented with respect to the Facilities, including any non-binding guidance or suggestions published or issued by any Authority.

(i) Status Reports. Promptly upon receipt thereof, Seller shall provide Buyer with construction status reports at the same frequency they are received from the Contractors and Subcontractors, to include the following:

(i) Actual progress versus the planned progress, graphed by area (e.g., excavations, foundations, cable trenching, etc.);

(ii) Material delivery updates and status; and

(iii) Actual work hours worked, including Subcontractor personnel.

(j) Landowner and Community Reporting. Seller shall provide Buyer with copies, no less than monthly (or more frequently if requested by Buyer), of Seller's site team's tracking log of complaints (including associated outcomes and resolutions) to and from any landowners and/or members of the local community relating to the Project prior to Substantial Completion.

(k) Provisionally-Approved Contractor List. Attached as Exhibit Z hereto is a list of contractors, other than the BESS/Inverter Supplier, that Buyer provisionally approves as potential contractors under Major Project Documents (the "***Provisionally-Approved Contractor List***"); provided however, that Buyer may, in its reasonable discretion, update the Provisionally-Approved Contractor List prior to Notice to Proceed, and upon any such updates, the Provisionally Approved Contractor List shall refer to the updated version. Prior to causing the Company to enter into any Major Project Document with a contractor on the Provisionally-Approved Contractor List that will perform any Work at the Site, or if Seller wishes to cause the Company to enter into a Major Project Document with a contractor not on the Provisionally-Approved Contractor List that will perform any Work at the Site, it may do so only with Buyer's prior written consent, not to be unreasonably withheld or delayed after such time as Seller has delivered to Buyer the Contractor Background Information with respect to such potential contractor (or such other information as Buyer may reasonably request with respect to any contractor that is not on the Provisionally-Approved Contractor List); provided, except as set forth in the next proviso, Buyer may not reject a potential contractor included on the Provisionally-Approved Contractor List except in the event of a deterioration in the financial condition of such contractor or its parent guarantor or in the event such contractor fails to meet the AEP Safety Criteria; provided, further, that Buyer's approval of any potential contractor (including any contractor on the Provisionally-Approved Contractor List) may be subject to such contractor providing such letters of credit, parent guarantee(s) or other financial assurances as Buyer determines to be necessary based on Buyer's evaluation of such potential contractor's or its guarantor's financial condition. In addition, if [redacted] (provided, that if in any fifteen (15) Business Day period Seller submits Contractor Background Information for more than six potential contractors, the period shall be [redacted] with respect to all such potential contractors) elapse after such time that Seller has provided Buyer with all Contractor Background Information required hereunder with respect to a potential contractor and no statement of approval or objection is received from Buyer, then Seller may submit a written notice to Buyer requesting that Buyer approve or reject such potential contractor (a "***Contractor Approval Request Notice***"), and, if Buyer does not approve or object to the potential contractor covered by the Contractor Approval Request Notice within [redacted] after Buyer's receipt of the Contractor Approval Request Notice, Buyer's approval shall be deemed given with respect to the potential contractor covered by the Contractor Approval Request Notice.

(l) Local Approvals and Permits. Seller shall keep Buyer reasonably informed with respect to the process for applying for and obtaining any and all local and county approvals and Permits not obtained as of the Execution Date and required by applicable Law for the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation or maintenance of the Project that need to be obtained after the Execution Date. Without limiting the foregoing, Seller shall (x) notify Buyer in writing as promptly as reasonably practicable in advance of any meeting or hearing to be held with any local or county Authority, whether public or closed to the public, with respect to any such approvals or

Permits, (y) allow Buyer to reasonably participate in any such process, meeting or hearing and (z) in good faith consider any recommendations with respect to such process, meeting or hearing, including comments provided with respect to any filings made in respect of such approvals and Permits.

Section 3.5 NERC Compliance Plan. Seller and Buyer, each acting reasonably, will jointly develop the NERC compliance program for the Project contemporaneously with the pre-construction project design and engineering Work as described more fully in the Scope of Work and Specifications. The NERC compliance program shall be finalized in accordance with Prudent Industry Practices and implemented by Seller not less than [redacted] The NERC compliance program will include, at a minimum, the items identified in the Scope of Work and Specifications.

Section 3.6 Site Finalization; Title and Survey.

(a) Prior to the Execution Date, Buyer has received for review the following: (i) the Preliminary Title Report (together with any instruments that create or evidence exceptions to title to any of the Real Property or which are referenced in the requirements section of the Title Reports), (ii) the Schedule B Exceptions referenced in the Preliminary Title Report (the "***Exception Documents***"), (iii) all matters disclosed by the Preliminary Survey; and (iv) current draft copies of the Property Agreements. As soon as possible but not later than, [redacted] after the Execution Date, Buyer shall inform Seller in writing of the matters, if any, disclosed in the Preliminary Title Report and the Preliminary Survey that, in Buyer's commercially reasonable opinion, constitute Encumbrances other than Permitted Encumbrances and to which Buyer objects (collectively, "***Title Objections***") and (B) any matters disclosed in the Preliminary Title Report, the Exception Documents, and the Preliminary Survey and not so specifically objected to by Buyer shall be deemed to be Permitted Encumbrances and approved by Buyer. Seller will use its commercially reasonable efforts to address and resolve Buyer's Title Objections to Buyer's reasonable satisfaction, and, from time to time, at such intervals as reasonably appropriate given the then existing number or materiality of outstanding updates and proximity to Closing or as reasonably requested by Buyer. Seller shall, or Seller shall cause the Title Company to, deliver to Buyer Updated Title Work (together with legible copies of any new Exception Documents) and, as applicable, Updated Survey Sheet(s).

(b) As soon as practicable after the Execution Date but no later than [redacted] before the Notice to Proceed Date, Seller shall promptly and diligently, at Seller's sole cost and expense, deliver to Buyer the Site Plan incorporating Buyer's comments, and approved by Buyer, in accordance with Section 3.4(a).

(c) Not later than the earliest of: (x) the date that is [redacted] or (y) the date that is [redacted] Seller shall promptly and diligently deliver the following to Buyer (except as set forth below):

(i) one or more Phase I environmental site assessments performed by a qualified consultant (as reasonably determined by Seller) in compliance with the standards and practices for "all appropriate inquiries" under 40 CFR § 312 covering

the Property, along with reliance letters reasonably acceptable to Buyer (if applicable), whereby: (A) either (1) such assessments shall confirm that no "Recognized Environmental Conditions" (as defined in ASTM E1527-21 section 3.2.73) have been identified to exist that would materially impact performance of Seller's obligations under this Agreement or (2) Seller shall have provided to Buyer a remediation plan for resolution of any such identified Recognized Environmental Conditions, including but not limited to removal or other remediation or control of any environmental contamination identified as part of any Recognized Environmental Condition before the Closing Date, which remediation plan is reasonably acceptable to Buyer; (B) to the extent not included in the Phase I environmental assessment report(s), Seller shall have provided Buyer written proof of the resolution of any "Controlled Recognized Environmental Conditions" and "Historic Recognized Environmental Conditions" (as defined in ASTM E1527-21 sections 3.2.17 and 3.2.39, respectively) identified therein, as reasonably acceptable to Buyer; and (C) notwithstanding anything to the contrary in this Section 3.6(c)(i), such Phase I environmental site assessments shall have been performed no more than [redacted]

(ii) true and complete copies of all of the Subordination Agreements, which shall have been fully executed and recorded;

(iii) true and complete copies of all of the Land Contracts, which shall be in final recordable form, as previously approved by Buyer, and available for execution immediately upon the Notice to Proceed Date; and

(iv) the Crossing Matrix.

(d) If and to the extent that the Updated Title Reports or the Updated Survey Sheet(s) identify one or more Encumbrances other than Permitted Encumbrances that were not reflected on the Preliminary Title Report or on the Preliminary Survey approved or deemed approved by Buyer, and not reflected in prior Updated Title Reports or Updated Survey Sheet(s) provided pursuant to Section 3.6(a), Buyer may identify the same (collectively, "***Updated Title Objections***") to Seller in writing within [redacted] after Buyer's receipt of the Updated Title Reports or Updated Survey Sheet(s), as applicable. Any matters to which Buyer does not object within such [redacted] period shall be deemed approved and considered to be "Permitted Encumbrances". Seller will use its commercially reasonable efforts to address and resolve Buyer's Updated Title Objections to Buyer's reasonable satisfaction and to cause the Title Company to remove or, to the extent reasonably acceptable to Buyer to cure the subject objection item, affirmatively insure over the Title Objections and Updated Title Objections or provide endorsement coverage in the Title Policy.

(e) Notwithstanding anything to the contrary contained in this Agreement, except for matters shown or addressed in the NTP Survey or the NTP Title Policy, Seller shall cause all Encumbrances which are not Permitted Encumbrances to be released, subordinated to the Company's interest, cured or satisfied (as applicable, or otherwise satisfy requirements imposed by the Title Company as may be necessary to obtain affirmative coverage over such Encumbrances or to cause the Title Company to issue standard endorsement coverages, reasonably acceptable to

Buyer, over any such Encumbrances). Any Encumbrance that is susceptible to cure by the payment of money (other than real property taxes or assessments not yet due) shall in any event constitute a Permitted Encumbrance if, on or before the Closing Date, Seller (i) bonds over such Encumbrance in accordance with applicable Law and in a manner reasonably satisfactory to Buyer and the Title Company and the Title Company agrees to insure over such Encumbrance in a manner acceptable to Buyer, or (ii) furnishes a letter of credit (in form, and from a bank, satisfactory to Buyer in its sole discretion) in an amount equal to [redacted] of the amount claimed by the underlying claimant and the Title Company agrees to insure over such Encumbrance in a manner acceptable to Buyer. If applicable, the letter of credit described in clause (ii) above will remain in place until Seller has cured such Encumbrance or satisfies the requirements of clause (i). If Seller has not released, subordinated, cured or satisfied (as applicable) such Encumbrance as of the earlier of (x) the date which is [redacted] or (y) [redacted] following the commencement of an action by such claimant to foreclose or enforce such Encumbrance, Buyer may cause the Company, its successors or assigns, to apply the security provided under clause (i) or (ii) above towards satisfying the claim (including costs of investigation, reasonable attorneys' fees and the costs or expenses to which such claimant may be entitled), including any additional Losses incurred by the Company or Buyer with respect to such Encumbrance, and after satisfaction of all of the foregoing, the remainder, if any, returned to Seller. Seller agrees to execute and deliver all documentation required for application of such security towards the cost of curing the applicable Encumbrance to Buyer's reasonable satisfaction. To the extent the costs of satisfying the claim exceed the security, Seller shall be required to indemnify and reimburse Buyer for all costs incurred over the security in satisfying the claim.

(f) For purposes of this Section 3.6, notices to Seller by Buyer or to "inform Seller" shall be satisfied by Buyer providing such notice via email to Seller's counsel involved with Section 3.6 matters, with email copy to Seller, including delivery of a spreadsheet tracker setting forth such matters.

(g) Seller shall deliver to Buyer, on or before the Site Finalization Date, final executable forms of all Land Contracts, which shall be in forms as previously approved by Buyer, and in recordable form such that the Land Contracts can be executed and recorded immediately upon the Notice to Proceed Date.

(h) [reserved].

(i) Seller shall deliver to Buyer, on or before the Site Finalization Date, a Survey overview index sheet depicting the Property boundaries and the preliminary location of Facilities, none of which shall be located on any real property located outside of the Property boundaries unless such Facilities are capable of being relocated onto the Property.

Section 3.7 State Commission Approvals.

(a) Without limiting the provisions of Section 4.1, Buyer shall [redacted] file this Agreement with the Commissions together with a request for confidential treatment and shall diligently and in good faith and using all commercially reasonable efforts pursue the Commission Approvals. Subject to the requirements of Section 3.7,

the form of Buyer's filings for the subject matter of the Commission Approvals and the conduct by Buyer of any proceedings related to the Commission Approvals, including the redactions to this Agreement for the form hereof that will be publicly available, any public statements, meetings with stakeholder groups, settlement or appeals, related to or arising from such filings shall be determined in the sole discretion of Buyer and Buyer shall not be required to consult with or obtain Seller's consent thereto. Buyer shall keep Seller reasonably informed of any material developments, meetings, discussions or other communications with a Commission or with any other Authority with respect to such filings and the Commission Approvals; provided, however, that Seller shall not make any public statements regarding such filings, engage in discussions with any Commission or stakeholder groups, participate in meetings with any Commission or stakeholder groups, or intervene in related proceedings, in each case, without Buyer's consent, with respect to the Commission Approvals. Seller shall provide such information and assistance in the filings and review process as is reasonably requested by Buyer.

(b) Buyer and Seller acknowledge that, in the course of the regulatory proceedings contemplated by this Section 3.7 and Section 3.8, as well as in other State and Federal regulatory proceedings, it will be necessary to share Buyer Confidential Information and Seller Confidential Information with regulatory authorities and parties to regulatory proceedings. Buyer consents to such disclosure of Buyer Confidential Information, and Seller consents to such disclosure of Seller Confidential Information, provided that Buyer takes reasonable steps to seek protection of all such Buyer Confidential Information and all such Seller Confidential Information. Notwithstanding the provisions of the preceding sentence, Buyer and Seller acknowledge that the rulings of the regulatory authorities (or, as applicable, courts of competent jurisdiction) will be determinative of whether, and the extent to which, such information is protected from public disclosure. Any information that any regulatory authority decides should not be, or is not, protected from public disclosure shall no longer be considered Buyer Confidential Information or Seller Confidential Information (as applicable) for the purposes of this Agreement.

Section 3.8 FERC Approvals.

(a) Without limiting the provisions of Section 4.1, on or prior to the effective date of the Shared Facilities Agreement, Seller shall assign the Interconnection to the Shared Owner, as that entity is defined in the Shared Facilities Agreement, subject to Seller obtaining all necessary consents as required under such agreements. Seller shall promptly provide any needed to consent to such assignments.

(b) [Reserved].

(c) Manager, as that entity is defined in the Shared Facilities Agreement, shall use commercially reasonable efforts to file the Shared Facilities Agreement for acceptance by FERC [redacted] and the Buyer shall execute and file a notice of consummation with FERC concurrent therewith. Thereafter, the Manager will timely file any amendment to the Agreement that is required to be filed at FERC. Each of the Parties agrees that it will cooperate in the preparation of such filings and as necessary to address any issues raised by FERC in connection with the filing for acceptance of the Agreement or such amendment. Subject to the terms and

conditions set forth herein, the Parties agree to execute and deliver all documents reasonably necessary for this Agreement to comply with FERC requirements.

Section 3.9 Financing. Seller will not obtain construction debt financing to complete the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project.

Section 3.10 Notice to Proceed. Each Party shall provide prompt written notice to the other Party if it reasonably believes that any of the conditions below will not be satisfied by the Notice to Proceed Outside Date. Upon receipt of such notice, the Parties shall consider an extension of the Notice to Proceed Outside Date, and unless this Agreement is amended to extend the Notice to Proceed Outside Date or modify any relevant terms of this Agreement regarding the expected inability to satisfy the conditions to issue Notice to Proceed, then Seller may suspend its obligation to perform the Work pending such an amendment or modification; provided, that nothing in the foregoing shall relieve Seller from any obligations with respect to any material breach of this Agreement that results in or contributes to the delay in satisfying the applicable condition(s) below. [redacted]

(a) the Commission Approval shall have been obtained from the Virginia State Corporation Commission and have become final and non-appealable;

(b) all Required FERC Approvals shall have been obtained and shall be in full force and effect, without any material condition or restriction on either of the Parties or otherwise affecting the operation or use of the Facilities in any material respect that is unacceptable to Buyer, provided, that Buyer may not waive the condition in this clause (b) without the consent of Seller.

(c) all of the Major Project Documents and the Property Agreements have been executed or are in final form (which final forms have been delivered to, and approved by, Buyer if otherwise required under this Agreement) and are ready for execution by Seller promptly after Buyer delivers the Notice to Proceed, provided, that Buyer may not waive the condition in this clause (c) without the consent of Seller (such that the Major Project Documents and the Property Agreements are also in form and substance reasonably satisfactory to Seller);

(d) the Site Finalization Date shall have occurred; provided, that Buyer may not waive the condition in this clause (d) without the consent of Seller;

(e) Buyer shall have received a certificate executed by an authorized representative of Seller (at the level of vice president or higher) certifying that (i) the representations and warranties made by Seller in Article V hereof are true and correct in all material respects as of the date on which the Notice to Proceed is to be delivered (except, in each case, to the extent that any of representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in

all respects, and (ii) Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller at or before the date on which the Notice to Proceed is to be delivered;

(f) the Permits set forth on Schedule 3.10(f) (or such other Permits as may reasonably be requested in Buyer's reasonable discretion) shall have been obtained and shall be in full force and effect, without any material condition or restriction on either of the Parties or otherwise affecting the operation or use of the Facilities in any material respect; provided, that Buyer may not waive the condition in this clause (f) without the consent of Seller;

(g) Seller shall have obtained or delivered, as applicable, all of the Seller Consents required to be obtained or delivered by the Notice to Proceed Date, which Seller Consents shall be final, non-appealable and in full force and effect;

(h) Buyer shall have obtained or delivered, as applicable, all of the Buyer Consents required to be obtained or delivered by the Notice to Proceed Date, which Buyer Consents shall be final, non-appealable and in full force and effect;

(i) the Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall not have occurred and be continuing a Letter of Credit Default or Seller Parent Guaranty Default;

(j) all insurance policies required to be obtained and maintained in accordance with Section 3.14 shall be in full force and effect and Seller shall have delivered to Buyer certificates of insurance with respect thereto; provided, that Buyer may not waive the condition in this clause (j) without the consent of Seller;

[redacted]

(m) Buyer and the LTSA Provider shall have agreed to a long term services agreement for the BESS that is part of the Project (the "***LTSA***"), and Buyer and LTSA Provider shall have entered into an escrow agreement in form and substance, and with an escrow agent, reasonably satisfactory to Buyer pursuant to which Buyer and the LTSA Provider agree to deposit their respective signature pages to the LTSA with the escrow agent to hold in escrow until such signature pages are released to Buyer and the LTSA Provider upon the condition that the Closing is occurring contemporaneously with such release, and Buyer the LTSA Provider shall have delivered their executed signature pages to the LTSA to the escrow agent pursuant to the escrow agreement; provided, further, that Buyer covenants and agrees to use commercially reasonable efforts to negotiate a form of LTSA with the LTSA Provider promptly after the Execution Date, to agree to the LTSA with the LTSA Provider and to perform its other obligations set forth in this Section 3.10(m);

(n) Buyer shall have received the Seller Start of Construction Certificate (NTP Date), executed by Seller, with no changes from the form attached hereto as Exhibit I-3, other than those that are not reasonably likely to cause ITCs with respect to the Project to be materially reduced or otherwise adversely affected;

(o) The Necessary Studies Agreement has been implemented by PJM to support the joint use of the Interconnection Agreement by the Company and [redacted] provided, that Buyer may not waive the condition in this clause (n) without the consent of Seller; and

(p) (A) Seller, at Seller's expense, shall have caused the Title Company be irrevocably committed to issue to the Company a pre-construction title policy within [redacted] after Buyer sends the Notice to Proceed to Seller, as evidenced by a closing instruction letter with the proforma NTP Title Policy attached thereto, each in form and substance reasonably satisfactory to Buyer, ("***Closing Instruction Letter***"),executed on behalf of Buyer, Seller and the Title Company, on the most recent ALTA form (or its equivalent form in the State or Commonwealth in which the Real Property is located) extended coverage owner's policy of title insurance (deleting the arbitration clause and limiting or deleting the survey exception to the extent permitted in the State or Commonwealth in which the Real Property is located), which policy shall (i) name the Company as the insured; (ii) delete all standard title exceptions, including, without limitation, any exception pertaining to mechanics' or materialmen's liens which have been or may be filed arising out of work performed or materials furnished to the Real Property or any portion thereof; (iii) not include in Schedule B thereof or elsewhere any exceptions other than the exceptions shown on the proforma attached to the Closing Instruction Letter; (iv) be issued in the amount of not less than the Purchase Price; (v) show the Company as being vested with fee, easement lease or applicable interest in and to the Real Property (including leasehold, easements and fee interests created by the Land Contracts) free and clear of Encumbrances on or superior to such interest other than the exceptions shown on the proforma attached to the Closing Instruction Letter; (vi) reference any and all Subordination Agreements and Crossing Agreements in connection with each of the applicable Schedule B Exceptions; (vii) include the Closing Title Endorsements shown on the proforma attached to the Closing Instruction Letter, without exception; and (viii) have an effective date as of Closing (collectively, the "***NTP Title Policy***"); and (B) Seller, at Seller's expense, shall have satisfied (or caused to be satisfied) all requirements set forth in the Preliminary Title Report and Updated Title Reports and delivered (or caused to be delivered) to the Title Company, with a copy to Buyer, such instruments and documents required by the Title Company in order to issue such Title Policy, including, without limitation, certificates, affidavits and indemnities, none of which indemnities shall be executed by the Company and none of which instruments, documents, certificates or affidavits shall cause the Company to retain, following Closing, any liability thereunder, including with respect to any agreements, certifications or statements set forth therein (it being understood and agreed that any such instrument, document, certificate, or affidavit to be executed by the Company, shall be subject to the reasonable approval of Buyer and shall expressly provide that any and all such liability of the Company shall, prior to Closing, be extinguished and assumed from and thereafter by a third party Affiliate of the Company approved by the Title Company), and landowner instruments, such as authority documents; and (C) following issuance of the NTP Title Policy all Encumbrances and other matters shown or disclosed in the NTP Title Policy are Permitted Encumbrances and

accepted by Buyer whether such Encumbrances and other matters were previously objected to by Buyer, or do not otherwise meet the definition Permitted Encumbrances in this Agreement.

(q) (A) Seller shall have caused the Surveyor to be irrevocably committed to sign and deliver the then current form of the Survey within [redacted] after Buyer sends the Notice to Proceed to Seller, as evidenced by a letter in form and substance reasonably satisfactory to Buyer with the current form of the Survey, as updated by the Updated Survey Sheets, if applicable, attached and executed on behalf of Buyer, Seller and the Surveyor ("***NTP Survey***"), which NTP Survey shall be in form as approved by Buyer; and (B) following issuance of the NTP Survey all Encumbrances and other matters shown or disclosed in the NTP Survey are Permitted Encumbrances and accepted by Buyer whether such Encumbrances and other matters were previously objected to by Buyer, or do not otherwise meet the definition Permitted Encumbrances in this Agreement.

Section 3.11 Intended Tax Treatment. Buyer and Seller intend for the Project to be treated as originally Placed in Service by Buyer for all federal, state and local income tax purposes and agree to file all federal, state and local income tax returns in a manner consistent with such intention, unless required by a final determination, within the meaning of Section 1313 of the Code, to the contrary. Consistent with the foregoing, neither Seller nor any Affiliate of Seller will (i) take any position on any Tax Return that is inconsistent with the Project being Placed In Service by Buyer and the "original use" (within the meaning of Section 48 of the Code) of the Project and any property that is part of the Project, including the Company Assets, commencing with Buyer, or (ii) claim on any Tax Return any depreciation or amortization deductions, ITCs or any other tax credits or deductions that are available as a result of the ownership or operation of the Project or any property that is part of the Project, including the Company Assets.

Section 3.12 Events of Force Majeure; Seller Excusable Events.

(a) The term "***Force Majeure***", as used in this Agreement, means any event which wholly or partly prevents or delays the performance of any obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party affected, (ii) such event, despite the exercise of reasonable diligence, cannot be prevented, avoided or overcome by such Party, (iii) the Party affected has taken all reasonable precautions and measures pursuant to Prudent Industry Practices in order to avoid the effect of such event on such Party's ability to perform its obligations under this Agreement and to mitigate the consequences thereof, and (iv) such event is not the direct or indirect result of a Party's negligence or the failure of such Party to perform any of its obligations under this Agreement or to comply with applicable Law. A Force Majeure event may include any of the following (but only if and to the extent such event meets the requirements of (i) – (iv) above): (A) acts of God or the public enemy, war, whether declared or not, blockade, insurrection, riot, civil disturbance, public disorders, rebellion, violent demonstrations, revolution, sabotage or terrorist action; (B) any effect of unusual natural elements, including fire, subsidence, earthquakes and Abnormal Weather Conditions; (C) environmental and other contamination at or affecting the Project; (D) explosion, accident or epidemic; (E) governmental action or inaction; (F) general strikes, lockouts or other collective or industrial action by workers or employees, or other labor difficulties; (G) the unavailability of labor, fuel, power or raw materials, the breakdown of the Project or the individual Facilities or other plant breakdown or equipment failure, and any event affecting the ability of any

supplier (including under any engineering, procurement or construction agreement for the Project) to the Project or the individual Facilities to fulfill its obligations to Seller and the Project so long as, in each case, the cause thereof otherwise would qualify as a Force Majeure; (H) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine; (I) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials; (J) epidemic, pandemic, quarantine or outbreak of disease (excluding impacts, consequences or effects on a Party arising out of the COVID-19 pandemic, which may not be considered an event of Force Majeure); and (K) air crash, shipwreck, train wrecks or other failures or delays of transportation. The lack of money or changes in market conditions shall not constitute a Force Majeure.

(b) Notwithstanding anything to the contrary in Section 3.12(a), a Party shall not be entitled to Force Majeure relief for weather events or conditions other than Abnormal Weather Conditions, and Abnormal Weather Conditions shall not qualify as conditions or events of Force Majeure except as follows:

(i) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions bears the burden of proving that Abnormal Weather Conditions occurred and the entitlement to an extension of time therefor. A Party may only be granted an extension of time for Abnormal Weather Conditions that are of a severe enough nature that (a) (i) safe performance of the scheduled Work is prevented or substantially hindered, or (ii) an experienced contractor, exercising Prudent Industry Practices and performing comparable work under comparable conditions would cease performance of the affected Work; and (b) with respect to any day on which such Abnormal Weather Conditions exist for at least four (4) consecutive hours when Work affected by the Abnormal Weather Conditions is scheduled to be performed. The requirements of clauses (i) – (iv) of Section 3.12(a) must also be satisfied.

(ii) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions is only entitled to an extension of time for any delay attributable to the Abnormal Weather Conditions. If part or all of the delay could have been avoided by commercially reasonable measures, the Party is not entitled to an extension for such periods of time.

(iii) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions shall comply with all of the requirements of Section 3.12(c) for each day of Abnormal Weather Conditions.

(c) Neither Party shall be in default or in breach of its obligations under this Agreement or otherwise be liable to the other Party for any delay or failure in the performance of any of its obligations under this Agreement if and to the extent such delay or failure is a result of (i) in the case of Seller, a Seller Excusable Event arising after the Execution Date, or (ii) in the case of Buyer, a Force Majeure event arising after the Execution Date; provided, that except as expressly set forth in Section 3.12(e), Seller shall not be entitled to an extension of the Guaranteed Substantial Completion Date in connection with or as a result of any Seller Excusable Event. The protections afforded under this Section 3.12(c) to a Party shall be of no greater scope and no longer

duration, than is required by the Seller Excusable Event (or Force Majeure event, in the case of Buyer). Except as expressly set forth in this Section 3.12(c), no Seller Excusable Event (or Force Majeure event, in the case of Buyer) shall (i) relieve, suspend or otherwise excuse any Party from performing any obligation to make any payment owed to another Party or to indemnify, defend or hold harmless another Party pursuant to this Agreement, or (ii) result in an extension of the Guaranteed Substantial Completion Date (except as otherwise expressly provided in Section 3.12(e), but subject to Section 3.12(f)).

(d) Upon the occurrence of any Seller Excusable Event, the affected Party shall use commercially reasonable efforts to mitigate the effects of the Seller Excusable Event, resume normal performance of this Agreement within the shortest time commercially reasonable and continue to perform its obligations under this Agreement insofar as they are not affected by the Seller Excusable Event. Notwithstanding anything to the contrary contained in this Agreement, no Seller Excusable Event shall relieve, suspend or otherwise excuse a Party from performing any obligation to make any payment owed to the other Party or to indemnify, defend or hold harmless such other Party pursuant to this Agreement.

(e) If Seller considers that a Seller Excusable Event has occurred which may affect performance of its obligations under this Agreement, the following shall apply:

(i) Seller shall promptly, and in any event, not more than [redacted] after Seller has actual knowledge of the occurrence of such Seller Excusable Event, notify Buyer in writing thereof stating the full particulars (to the extent then known) (a "***Seller Excusable Event Notice***"), including (i) the obligations that are affected thereby and identifying the estimated period during which performance may be delayed or prevented, and (ii) the particulars of the program to be implemented to resume normal performance hereunder and to minimize the potential adverse effect on the performance of the Work resulting from such Seller Excusable Event. Without limiting Seller's obligations under Section 3.12(e)(ii), if Seller provides Buyer with a Seller Excusable Event Notice for any Seller Excusable Event that would not otherwise be covered under Section 3.12(e)(ii) after the date that is [redacted] after Seller has actual knowledge of the occurrence of a Seller Excusable Event, then Seller shall not receive the benefit of, or relief from, any such Seller Excusable Event for the time period between the date that is the [redacted] after Seller obtains actual knowledge of the occurrence of the applicable Seller Excusable Event and the date prior to the delivery of the Seller Excusable Event Notice. For any ongoing Seller Excusable Events, Seller shall provide updates to Buyer regarding the foregoing at least every [redacted] unless Buyer and Seller mutually agree in writing on a longer period.

(ii) If Seller considers that any Seller Excusable Event had a material effect, or is likely to have a material effect, on the "critical path" of the Work such that it will result in a failure of Seller to achieve Substantial Completion by the Guaranteed Substantial Completion Date, it shall so state as such in the applicable Seller Excusable Event Notice [redacted]

[redacted] and shall promptly thereafter demonstrate to Buyer (i) that the "critical path" of the Work was so materially affected or is likely to be materially affected, (ii) that the activity claimed to have been delayed was in fact delayed by the Seller Excusable Event or is likely to be delayed by the Seller Excusable Event, and (iii) to the extent known by Seller at the time of the notice, the number of days Seller was delayed, or is likely to be delayed, in the performance of such "critical path" of the Work due to such Seller Excusable Event. For ongoing Seller Excusable Events, Seller shall provide updates to Buyer regarding the foregoing at least every [redacted] unless Buyer and Seller mutually agree in writing on a longer period. If Seller demonstrates to the reasonable satisfaction of Buyer that the claimed Seller Excusable Event did materially affect the "critical path" of the Work and Seller's ability to achieve Substantial Completion by the Guaranteed Substantial Completion Date and Seller has complied with the requirements of this Section 3.12, then Seller shall be entitled to the relief described in Section 3.12(c). In addition, with respect to any Buyer-Caused Delay covered by a Seller Excusable Event Notice that is timely delivered by Seller, if Buyer does not end the Buyer-Caused Delay within [redacted] after receipt of such Seller Excusable Event Notice, Buyer agrees to reimburse Seller for the reasonable incremental out-of-pocket expenses paid by Seller or the Company to a third party, and excluding any overhead of Seller or any of its Affiliates (including the Company), that Seller demonstrates to the reasonable satisfaction of Buyer are the direct result of such Buyer-Caused Delay.

(iii) Compliance with the terms of this Section 3.12 by Seller is a condition precedent to Seller's receipt of relief for any Seller Excusable Event, including any extension of the Guaranteed Substantial Completion Date or any reimbursement of costs resulting from a Buyer-Caused Delay. In the event of a failure to comply with this Section 3.12 in regard to any Seller Excusable Event, Seller shall not be entitled to any relief hereunder and shall be deemed to have waived any future claim relating to such Seller Excusable Event.

(iv) Notwithstanding anything to the contrary, Seller shall not be entitled to any relief hereunder for any Seller Excusable Event to the extent (A) such Seller Excusable Event results from or relates to (i) the negligence or willful misconduct of Seller or any supplier or contractor or subcontractor of any tier, (ii) the failure of Seller or any supplier, contractor or subcontractor of any tier to comply in any material respect with any of its obligations under, or a material breach by Seller or any supplier or contractor or subcontractor of any tier of, this Agreement or any Company Contract or the applicable subcontract, or (iii) the violation by Seller or any supplier, contractor or subcontractor of any tier of any Law or Permit, whether now or hereafter in effect, or (B) Seller fails to use reasonable commercial efforts to mitigate the effects of such Seller Excusable Event.

(f) Upon satisfaction by Seller of the terms and conditions of Section 3.12(e), Seller and Buyer shall enter into a mutually agreed upon written amendment to this Agreement reflecting an adjustment to the Guaranteed Substantial Completion Date, to account for material delays to the "critical path" of the Work resulting from the Seller Excusable Event; provided, that

(i) in no event shall the Guaranteed Substantial Completion Date be extended beyond [redacted] pursuant to this Section 3.12(f), and (ii) the Guaranteed Substantial Completion Date may not be extended by Seller Excusable Events that occur before the Mechanical Completion date and are not continuing after the Mechanical Completion Date.

(g) In no event shall the Outside Date be extended pursuant to this Section 3.12 or otherwise pursuant to this Agreement.

Section 3.13 No Sales of Test Power; Placement in Service. Notwithstanding anything in the Agreement to the contrary, prior to the Closing, (a) Seller shall not, and shall cause the Company to not, sell, transmit or otherwise deliver any power from the Project to any other Person, and (b) Seller shall not, and shall cause the Company and the EPC Contractor to not, permit the Project to be Placed in Service or synchronized to the transmission grid without Buyer's prior written approval, which may be withheld, conditioned or delayed in Buyer's sole discretion.

Section 3.14 Project Insurance Policies. Seller shall, and shall cause to the Company, obtain and maintain in full force and effect through the Closing Date the insurance policies as provided in Schedule 3.14 ("***Required Insurance Policies***").

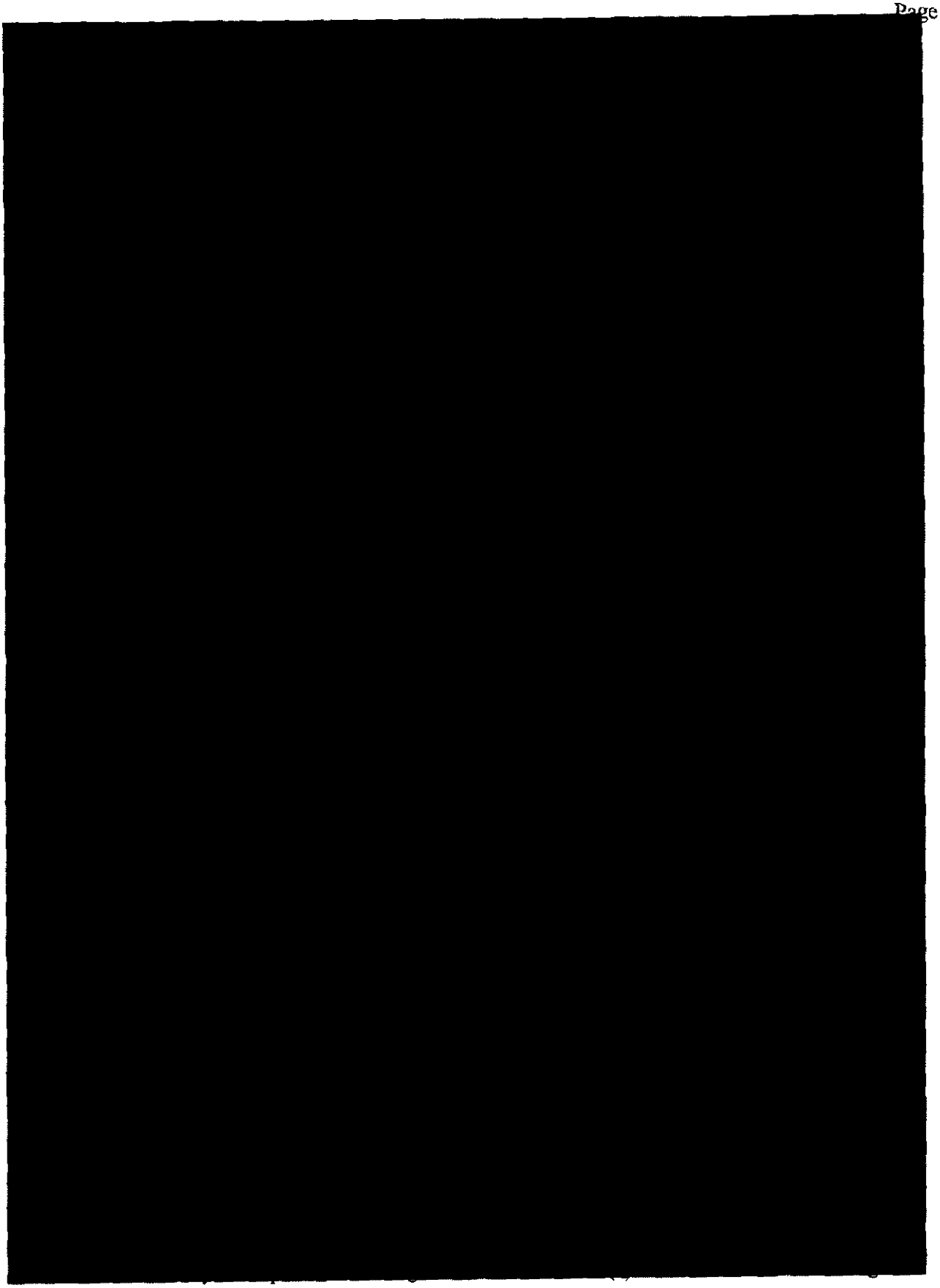
Section 3.15 O&M Facility. Seller shall cause O&M Facility Substantial Completion to occur no later than [redacted] Buyer shall have the exclusive right to occupy and use the O&M Facility from and after the O&M Facility Substantial Completion Date; provided, that Buyer shall provide Seller and the applicable Contractors' reasonable access to the O&M Facility for purposes of completing MC Punch List Items and SC Punch List Items with respect to the O&M Facility, or to perform work necessary to achieve Substantial Completion or Final Completion, so long as such access does not unreasonably interfere with Buyer's use of the O&M Facility.

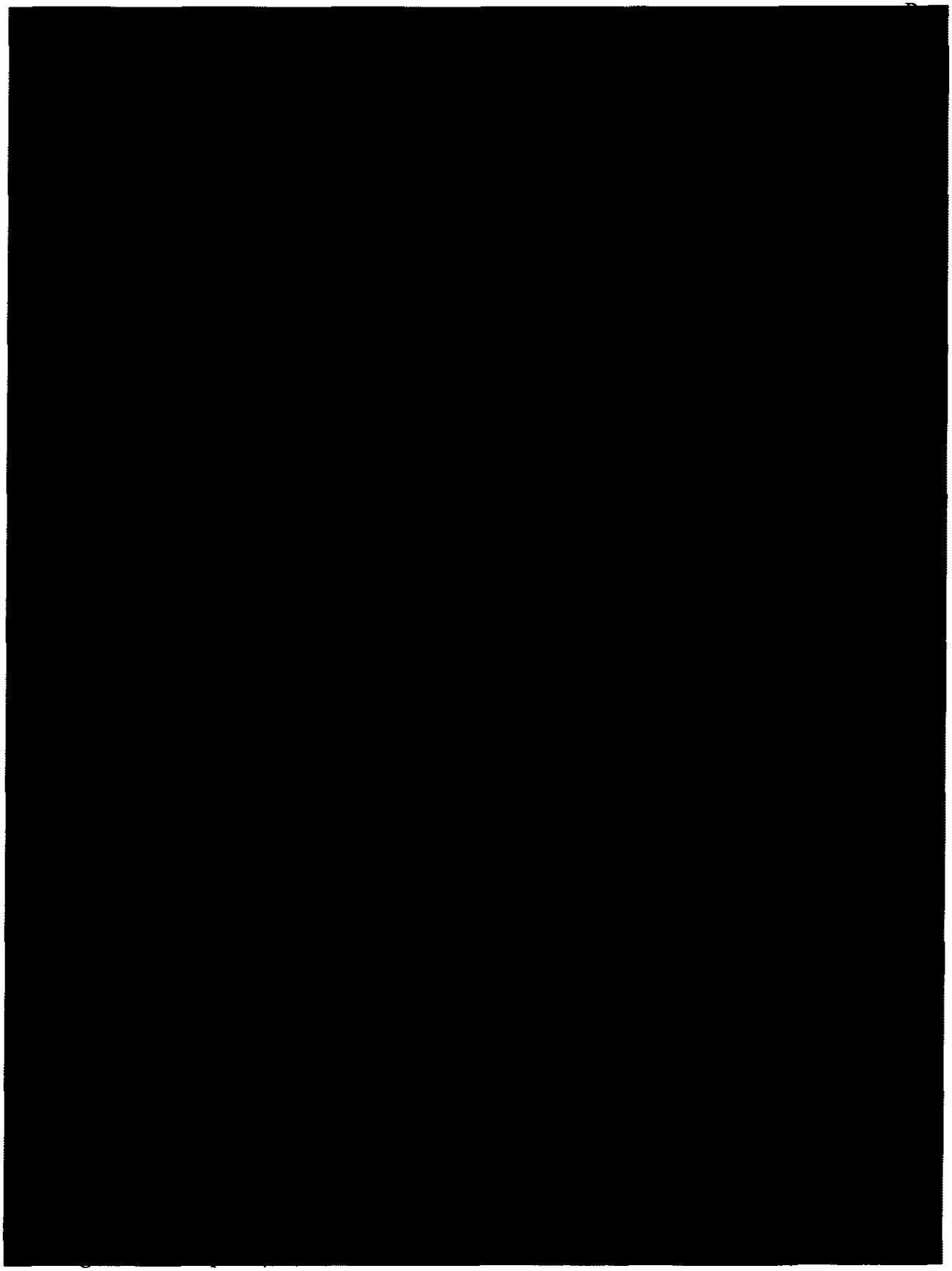
Section 3.16 Guaranteed Substantial Completion Date; Liquidated Damages. In the event Substantial Completion has not occurred on or before earlier of (i) the Guaranteed Substantial Completion Date (as such date may be extended as expressly set forth in clauses (e) and (f) of Section 3.12) or (ii) [redacted] liquidated damages ("***Delay Liquidated Damages***") in favor of Buyer will accrue at the rate of [redacted] Such Delay Liquidated Damages shall be payable from Seller to Buyer on the Substantial Completion Payment Date as a reduction in the Substantial Completion Payment paid from Buyer to Seller on the Substantial Completion Payment Date (or paid by Seller to Buyer on the Substantial Completion Payment Date, to the extent the Delay Liquidated Damages are not fully recovered by Buyer through a reduction in the Substantial Completion Payment). The payment of Delay Liquidated Damages (or offset against the Substantial Completion Payment) shall be Buyer's sole and exclusive remedy for damages for the delay resulting from Substantial Completion not occurring on or before the Guaranteed Substantial Completion Date. [redacted]

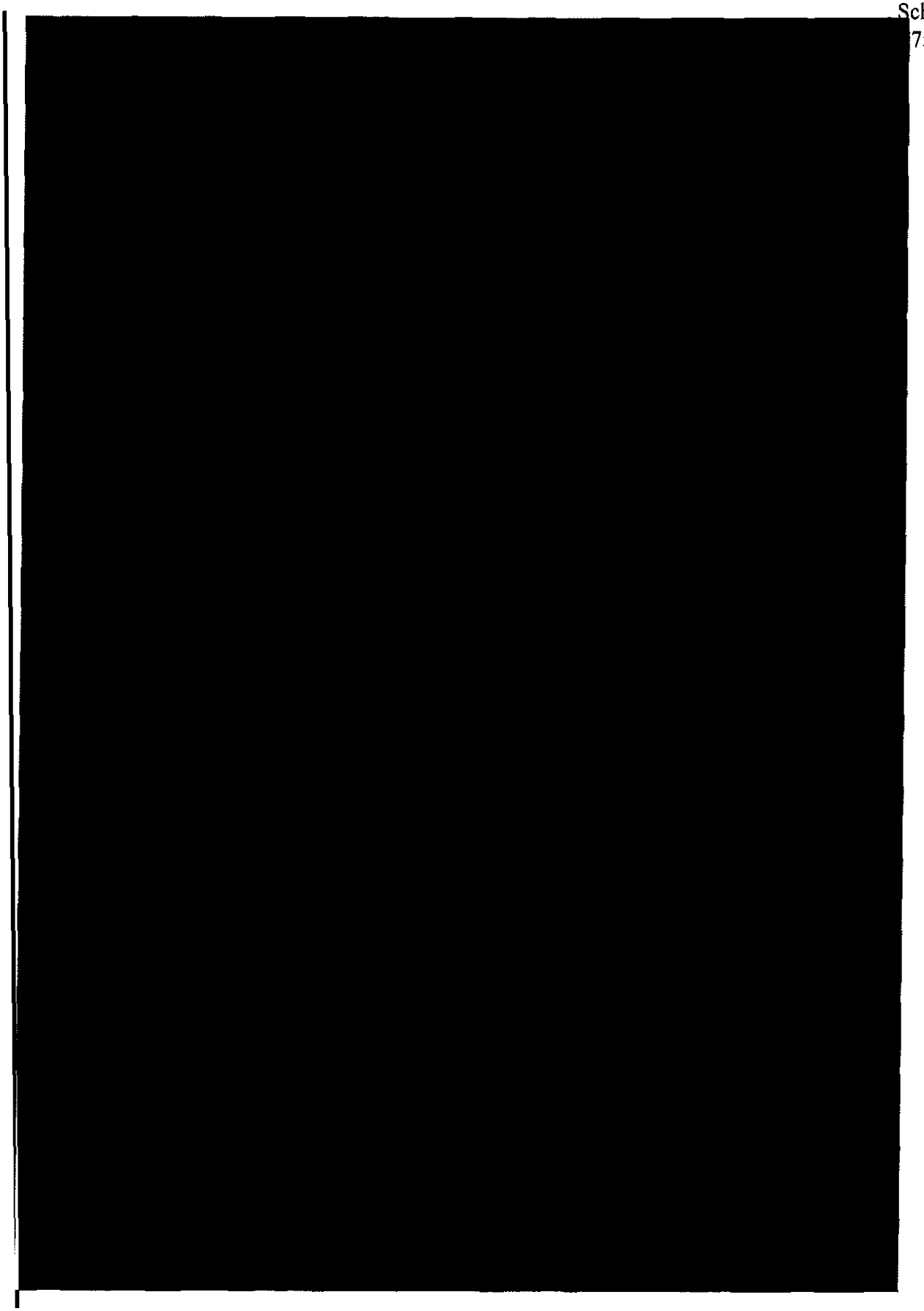
Section 3.17 Final Completion. Seller shall cause Final Completion to occur no later than [redacted]

Section 3.18 Defect Warranty.

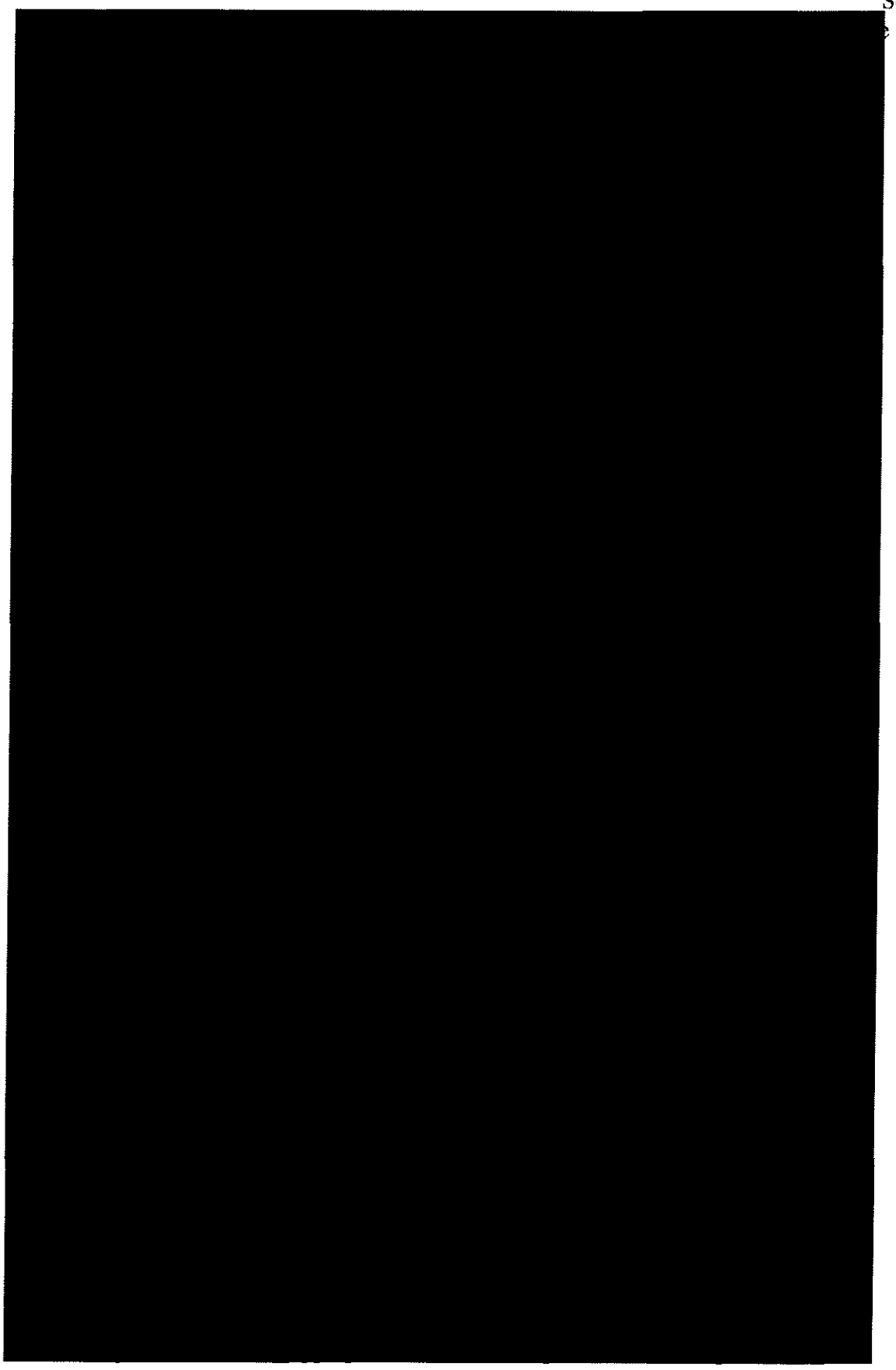
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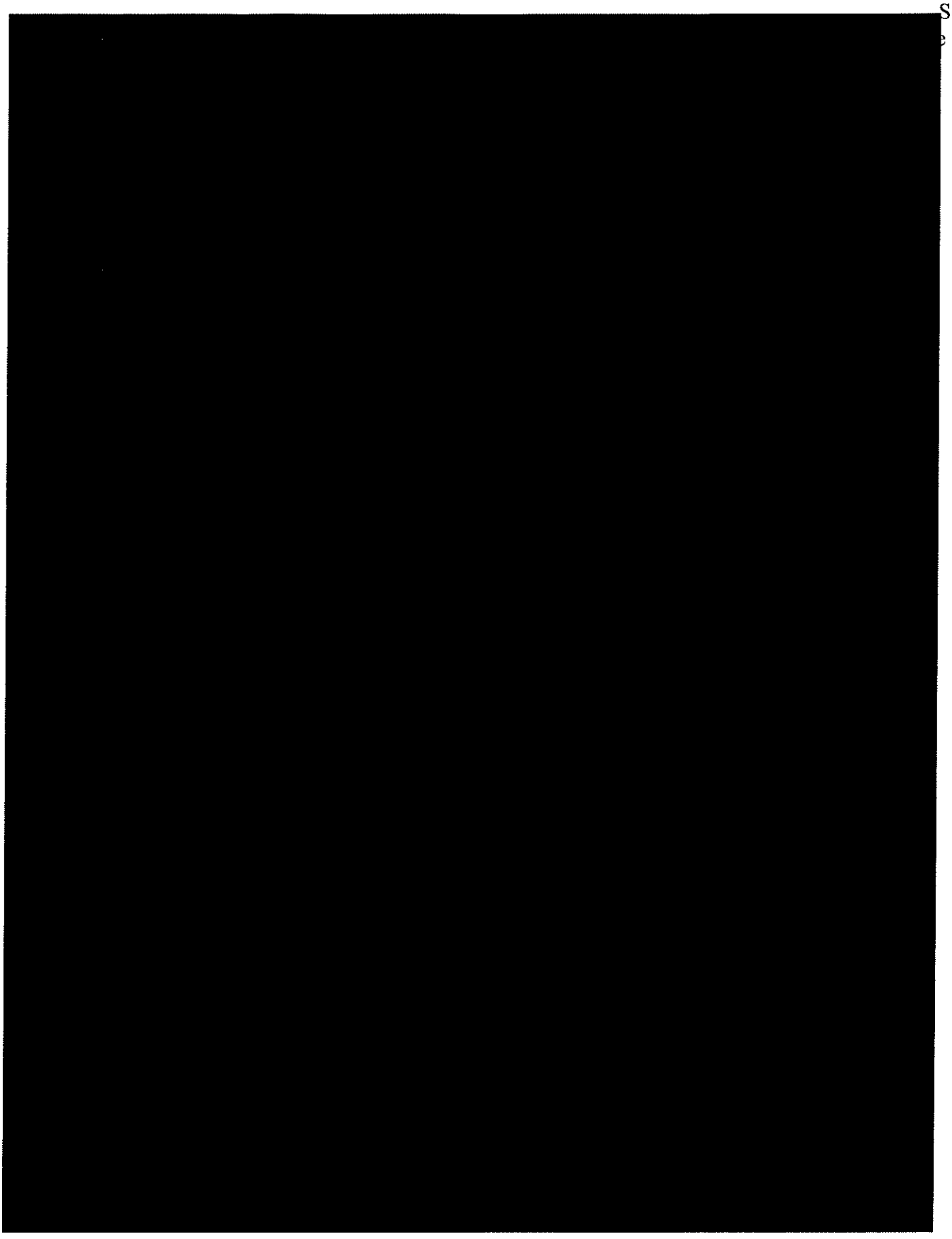






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Section 3.20 AEP Supplier Code of Conduct. Seller shall, and shall cause the Company to, comply with the AEP Supplier Code of Conduct. Seller shall, and shall cause the Company to, include the requirement to comply, and to require counterparties to Major Project Documents to comply (and all Subcontractors utilized therewith), with the AEP Supplier Code of Conduct in all such Contracts with respect to the Project [redacted]

Section 3.21 PWA Requirements.

(a) Prevailing Wage Requirement. Seller shall pay and shall cause its PWA Subcontractors to pay any Laborers Employed by each of them Wages at rates not less than the Prevailing Wage Rate for CAR Work at the PWA Site and to perform the associated recordkeeping requirements as described in the PWA Guidance, in each case in a manner so that the Project will satisfy the "prevailing wage requirements" described in Code Sections 45(b)(7), 45Y(g)(9), 48(a)(10), or 48E(d)(3) as applicable, and the PWA Guidance (collectively, the "***Prevailing Wage Requirements***"). In furtherance of such Prevailing Wage Requirements, Seller shall (and shall ensure that its PWA Subcontractors shall) (a) categorize each Laborer performing CAR Work at the PWA Site based on the Job Classifications set forth in the prevailing Wage determination published on www.sam.gov for the applicable geographic area and type or types of construction, (b) confirm as of the applicable date of execution of each applicable agreement (as described in Treasury Regulation Section 1.45-7(b)(5)) that such prevailing Wage determinations reflect the Prevailing Wage Rate and promptly update the Wage rates paid to such Laborers as necessary to stay in compliance with the PWA Guidance including at any time any such agreement is changed to include additional CAR Work not within the original scope of work of such agreement, or to require work to be performed for an additional time period not originally included in such agreement, including where an option to extend the term of such agreement is exercised, and (c) in the event (i) the Secretary of Labor has not published a prevailing Wage determination for the PWA Site and type of construction for the Project on www.sam.gov, or (ii) the Secretary of Labor has issued a prevailing Wage determination for the PWA Site and type of construction, but one or more labor classifications for the CAR Work that will be done on the PWA Site by Laborers is not listed, utilize the Contact Procedures to obtain such unlisted information, and rely on the DOL, Wage and Hour Division's determination as to the labor classifications and Wage rates to be used for the type of work in question in the area in which the Project is located.

(b) Apprenticeship Requirement. Seller shall comply and shall cause its PWA Subcontractors to comply with the "apprenticeship requirements" described in Sections 45(b)(8), 48E(d)(4), 45Y(g)(10) and 48(a)(11) of the Code, and the PWA Guidance, including the Labor Hours Requirement, the Ratio Requirement, Participation Requirement, and any associated recordkeeping obligations (collectively, the "***Apprenticeship Requirements***") in a manner so that the Project will satisfy the Apprenticeship Requirements (including by satisfying the Good Faith Effort Exception, if applicable).

(i) Labor Hours Requirement. Seller shall ensure that, with respect to the performance of CAR Work, not less than the "applicable percentage" (as defined in Section 45(b)(8)(A)(ii)(III) of the Code) of the total Labor Hours of the CAR Work (including any CAR Work performed by any PWA Subcontractor) shall be performed by Qualified Apprentices in a manner so that the Project will satisfy the "labor hours requirement" set forth in Code Section 45(b)(8)(A) and Treasury Regulation Section 1.45-8(b) (the "***Labor Hours Requirement***").

(ii) Ratio Requirement. Seller shall perform all CAR Work, and shall require that all PWA Subcontractors perform all CAR Work, in accordance with the apprentice-to-journeyworker ratios of the DOL or applicable State apprenticeship agency in a manner so that the Project will satisfy the "ratio requirement" as set forth in Section 45(b)(8)(B) of the Code and Treasury Regulation Section 1.45-8(c) (the "***Ratio Requirement***").

(iii) Participation Requirement. Seller shall ensure that, if Seller or any PWA Subcontractor Employs four or more individuals to perform CAR Work at the PWA Site, at least one (1) Qualified Apprentice shall be Employed by Seller or such PWA Subcontractor in a manner so that the Project will satisfy the "participation requirement" as set forth in Code Section 45(b)(8)(C) and Treasury Regulation Section 1.45-8(d) (the "***Participation Requirement***").

(iv) Good Faith Effort Exception. Seller and the PWA Subcontractors may use the Good Faith Effort Exception to comply with the Apprenticeship Requirements to the extent Seller and/or such PWA Subcontractors satisfy the requirements of the Good Faith Effort Exception.

(c) Monthly Recordkeeping. On a monthly basis, beginning with the first calendar month in which a Laborer Employed by Seller or any PWA Subcontractor performs any CAR Work, within [redacted] fter the end of each calendar month, Seller shall provide Buyer the following supporting documentation, in a form reasonably acceptable to Buyer, demonstrating that Seller and its PWA Subcontractors have complied in all respects with the Prevailing Wage Requirements and documenting the status of Seller's and each PWA Subcontractor's ongoing compliance with the Apprenticeship Requirements, in each case, for such month (each, a "***Monthly PWA Report***"):

(i) a list of all PWA Subcontractors that perform any CAR Work during such calendar month;

(ii) true, correct and complete copies of the Daily Site Entry Logs for each day during such calendar month;

(iii) copies of certified payroll and DOL Wage Hour Form 347 (or its substantial equivalent approved by Buyer in advance of delivery) for each calendar week or portion thereof during such calendar month showing the information set forth therein on a daily basis for each Laborer that performed any CAR Work on any day during such calendar week or portion thereof;

(iv) the following for each Laborer (including each Qualified Apprentice) Employed by Seller or any PWA Subcontractor performing CAR Work during such calendar month:

(A) identifying information, including the name, last four digits of the social security or tax identification number, address, telephone number and, to the extent available, email address of each such Laborer ("***Identifying Information***");

(B) the Job Classifications(s) applied to each Laborer for determining the Prevailing Wage Rate and documentation supporting the applicable classification, including, information showing the minimum Prevailing Wage Rate applicable to each such Laborer and the basis on which such minimum Prevailing Wage Rate was determined (including whether determined by reference to www.sam.gov);

(C) the hourly rate(s) of Wages paid (including rates of contributions or costs for bona fide fringe benefits or cash equivalents thereof) for each applicable Job Classifications;

(D) records to support any contribution irrevocably made on behalf of each Laborer to a trustee or other third person pursuant to a bona fide fringe benefit program, and the rate of costs that were reasonably anticipated in providing bona fide fringe benefits to Laborers pursuant to an enforceable commitment to carry out a plan or program described in 40 U.S.C. § 3141(2)(B), including records demonstrating that the enforceable commitment was provided in writing to the Laborers affected;

(E) the total number of labor hours worked per pay period;

(F) the total Wages paid for each pay period (including identifying any deductions from Wages);

(G) records to support Wages paid to any Qualified Apprentices at less than the applicable Prevailing Wage Rates; and

(H) the Employer of such Laborer;

(v) with respect to compliance with the Apprenticeship Requirements, the following with respect to each Qualified Apprentice Employed by Seller or any PWA Subcontractor in the CAR Work during such calendar month:

(A) the total number of labor hours worked by each Qualified Apprentice and the total number of labor hours worked by journeyworkers;

(B) records showing that the Participation Requirement was met, including identifying which of Seller and which of each PWA Subcontractor has (or had) four or more Laborers (including Qualified Apprentices) perform CAR Work and the Identifying Information of such Laborers who are Qualified Apprentices); and

(C) records showing that the Ratio Requirement met for each day during the applicable month, including showing the daily ratio of apprentices to journeyworkers for each applicable occupation and its corresponding classification and the applicable maximum apprentice-to- journeyworker ratio for each applicable occupation and its corresponding classification, on a per-Employer basis;

(vi) for the month (and any applicable subsequent month) in which any registered apprenticeship program provides a Qualified Apprentice from such registered apprenticeship program to be Employed in a particular occupation by Seller or any PWA Subcontractor to perform any CAR Work, (A) copies of any agreements entered into by Seller or such PWA Subcontractor with such registered apprenticeship program, (B) documents and certifications, as applicable, reflecting the standards and requirements of such registered apprenticeship program with respect to such occupation, and (C) records reflecting the registration of such Qualified Apprentice with such registered apprenticeship program and the applicable Wage rates and apprentice to journeyworker ratios prescribed by the apprenticeship program, the DOL, or the applicable state apprenticeship agency, as applicable, with respect to such Qualified Apprentice;

(vii) for the month (and any applicable subsequent month) in which Seller or any PWA Subcontractor corresponds with any registered apprenticeship program or the DOL's Office of Apprenticeship or a State apprenticeship agency with respect to CAR Work for the Project, (A) copies of relevant correspondence to and from each such registered apprenticeship program (including information related to the applicability Good Faith Effort Exception), including any written requests for the Employment of Qualified Apprentices from any such registered apprenticeship program, any response or acknowledgement of receipt or denial from any such registered apprenticeship program, and (B) copies of relevant correspondence to and from any contacts with the DOL's Office of Apprenticeship or a State apprenticeship agency regarding requests for Qualified Apprentices from a registered apprenticeship program;

(viii) for the month (and any applicable subsequent month) in which Seller or any PWA Subcontractor identifies any failure to comply with the Prevailing Wage Requirements, records reflecting (A) the amount and timing of any PWA Cure Liability

payments, including (1) documentation reflecting the calculation of such PWA Cure Liability payments, and (2) records to demonstrate eligibility for the penalty waiver in Treasury Regulation Section 1.45–7(c)(6), (B) the actions taken to prevent, mitigate, or remedy such failure, and (C) any complaints received by the Seller or PWA Subcontractor that the Seller or PWA Subcontractor paid Wages at a rate less than the applicable Prevailing Wage Rate for CAR Work performed by Laborers with respect to the PWA Site;

(ix) for the month (and any applicable subsequent month) in which Seller or any PWA Subcontractor identifies any failure to comply with the Apprenticeship Requirements, records reflecting (A) any failures to satisfy the Apprenticeship Requirements, (B) the actions taken to prevent, mitigate, or remedy such failure, and (C) any complaints received by the Seller or PWA Subcontractor that the Seller or PWA Subcontractor was not satisfying the Apprenticeship Requirements.

(x) such other information, if any, as may be reasonably requested by Buyer to document Seller's and any PWA Subcontractor's compliance with the PWA Requirements.

(d) PWA Consultant. Seller shall submit the documentation and information required in Section 3.21(c) directly to the portal system of an independent third party identified by Seller and agreed to by Buyer (the "PWA Consultant"); provided that the PWA Consultant shall have a direct contractual obligation with Buyer to provide such documentation and information reasonably promptly to Buyer upon Buyer's request. In the event that Seller or any PWA Subcontractor or the PWA Consultant fails to deliver the information or documentation set forth in this Section 3.21 in a form reasonably acceptable to Buyer, Seller shall be responsible for, and shall promptly pay upon written demand, any costs of Buyer to convert, input, or transfer such information or documentation from the form received by Buyer into the form reasonably acceptable to Buyer.

(e) Audits. In the event of any audit, inquiry, examination, assessment or other tax contest, whether initiated by the IRS, another Authority, or by Buyer's internal or external auditors or Buyer's (or its affiliates') direct or indirect owners, lenders or insurance providers or other financing parties, Seller shall, and shall require each PWA Subcontractor to, reasonably cooperate with Buyer, and Buyer shall reasonably cooperate with Seller,in connection such audit, inquiry, examination, assessment or other tax contest regarding the Seller's and PWA Subcontractors' compliance with the PWA Requirements, including promptly providing (and obtaining to provide) documentation and assisting in responding to any questions from any Authority, in each case, as reasonably requested by Buyer.

(f) Record Retention. Seller shall retain (i) all records included within the Monthly PWA Report (and, for the avoidance of doubt, other records otherwise required pursuant to Treasury Regulation Section 1.45-12) and (ii) all records showing compliance with Seller's performance of its obligations under this Section 3.21 (the "***Retained Records***") until the PWA Outside Date; provided, however, that if Buyer notifies Seller of an audit or examination that commences prior to the expiration of such period and where Seller's support is reasonably required by Buyer relative to such audit or examination, Seller shall retain such records through the final determination with respect to such audit or examination as required by Law; provided further that

Seller shall provide the Retained Records to Buyer before destroying or otherwise disposing of the Retained Records. The Retained Records shall include but are not limited to: the applicable Wage determination, classification of work performed, hourly and weekly Wage rates and fringes worked in each classification, contact information and payroll records for all Laborers and, as may be required, apprentices, who performed construction, repair or alteration work, as well as Seller's or the PWA Subcontractor's request of Qualified Apprentices from a registered apprenticeship program and the program's denial of such request or non-response to such request, as applicable.

(g) Additional Requirements. Seller shall, and shall require each PWA Subcontractor to:

(i) notwithstanding anything to the contrary in this Agreement, obtain Buyer's written approval (which such approval may be withheld in Buyer's sole discretion) before entering into any contract with any PWA Subcontractor who was known by the counterparty to such contract to be debarred by a municipality, state, or the DOL for violations related to the underpayment of local, state, or federal prevailing Wages; and

(ii) notwithstanding anything to the contrary in this Agreement, maintain and make available to Buyer or Seller pursuant to this Section 3.21(g)(ii), the name and full social security or tax identification number of each Laborer Employed or engaged by Seller or such PWA Subcontractor, as applicable, through the PWA Outside Date to the extent Seller or such PWA Subcontractor, as applicable, does not provide Buyer with sufficient evidence that a PWA Cure Liability that an Authority claims or proposes exists with respect to the Project has been fully satisfied pursuant to the PWA Guidance within a reasonable amount of time following Seller's or such PWA Subcontractor's receipt of notice of such PWA Cure Liability [redacted]; provided, that in the event Seller or a PWA Subcontractor is required to make available the information described in this Section 3.21(g)(ii), Buyer, Seller and such PWA Subcontractor, as applicable, shall cooperate in good faith to agree to indemnify Seller or such PWA Subcontractor, as applicable, for any applicable privacy liabilities of Seller or such PWA Subcontractor, as applicable, in connection with providing such information.

(h) Monthly Certificates. Upon delivery of each Monthly PWA Report, Seller shall deliver to Buyer (i) an executed Seller PWA Compliance Certificate with respect to such calendar month, and (ii) true, correct and complete copies of all Subcontractor PWA Compliance Certificates, with respect to such calendar month for each PWA Subcontractor that performed CAR Work in such month, in each case, certifying that Seller and its PWA Subcontractors have complied in all respects with the Prevailing Wage Requirements and documenting the status of Seller's and each PWA Subcontractor's ongoing compliance with the Apprenticeship Requirements.

(i) Completion Certificates. At Mechanical Completion and Substantial Completion, Seller shall provide an executed Seller Mechanical Completion PWA Compliance Certificate and a Seller Substantial Completion PWA Compliance Certificate, respectively, to Buyer to demonstrate that Seller and its PWA Subcontractors have complied in all respects with

the PWA Requirements consistent with the PWA Guidance with respect to any CAR Work performed by or on behalf of Seller and its PWA Subcontractors, including any deficiencies discovered in Seller's or a PWA Subcontractor's compliance with the PWA Requirements, along with the actions taken to cure such deficiencies.

(j) Subject to [redacted] Buyer shall not be responsible, and the Purchase Price shall not be adjusted for, any costs of Seller or any PWA Subcontractor to satisfy its PWA Requirements, including any penalties or interest related thereto.

(k) Seller's obligations under this Section 3.21, and its obligations to ensure the PWA Subcontractors' compliance with the obligations under this Section 3.21, shall survive until the PWA Outside Date.

Section 3.22 Domestic Content Requirements

(a) Seller shall, and shall cause each Subcontractor to, (i) ensure that any steel or iron that is supplied as part of the Work and is "structural in function" (as described in Section 3.02 of IRS Notice 2023-38, including any "steel or iron reinforcing products in foundation" as described in Section 7.02 of IRS Notice 2025-08) ("***Steel***") complies with the Domestic Content Requirements, (ii) ensure that each Manufactured Product Component listed on Schedule 3.22 (each, a "***Project MPC***") complies with the Domestic Content Requirements, and (iii) maintain documentation to demonstrate that all applicable project components described in clauses (i) and (ii) of this Section 3.22(a) and incorporated into the Project are in compliance with the Domestic Content Requirements. The parties acknowledge and agree that Seller will cause the Project to comply with the Domestic Content Requirements pursuant to the "first updated elective safe harbor" based on the table set forth in Section 7.02 of IRS Notice 2025-08.

(b) [redacted] of completion of each foundation included in the ITC Qualified Facility (including any battery energy storage system foundation, O&M Facility foundation, or any other Project foundation), Seller shall provide to Buyer (i) an executed Seller Domestic Content Compliance Certificate (Steel) and an executed Subcontractor Domestic Content Compliance Certificate (Steel) for each Subcontractor who furnished or incorporated such Steel, and (ii) any other information reasonably requested by Buyer, including information that is necessary for Buyer's (or any of its Affiliate's) tax return preparer or external independent auditor to conclude at least at a "more likely than not" level of comfort that the Project is eligible for the Domestic Content Credit Increase.

(c) [redacted] of incorporation of any Project MPC into the ITC Qualified Facility, Seller shall provide to Buyer (i) an executed Seller Domestic Content Compliance Certificate (Project MPC) and an executed Subcontractor Domestic Content Compliance Certificate (Project MPC) for each Subcontractor who furnished or incorporated such Project MPC, and (ii) any other information reasonably requested by Buyer, including information that is necessary for Buyer's (or any of its Affiliate's) tax return preparer or external independent auditor to conclude at least at a "more likely than not" level of comfort that the Project is eligible for the Domestic Content Credit Increase.

(d) At Mechanical Completion, Seller shall provide to Buyer (i) an executed Seller Mechanical Completion Domestic Content Compliance Certificate, and (ii) any other information reasonably requested by Buyer, including information that is necessary for Buyer's (or any of its Affiliate's) tax return preparer or external independent auditor to conclude at least at a "more likely than not" level of comfort that the Project is eligible for the Domestic Content Credit Increase.

(e) Seller shall, and shall cause each Subcontractor to, cooperate reasonably with Buyer in connection with any proceeding, examination or inquiry regarding the Project's compliance with the Domestic Content Requirements, including promptly providing documentation (and obtaining documentation to provide) and assisting in responding to any questions from any Authority, in each case, as reasonably requested by Buyer.

(f) The covenants contained in this Section 3.22 shall survive until the PWA Outside Date.

Section 3.23 [Reserved]

Section 3.24 Buyer-Furnished Equipment.

(a) [redacted] Notwithstanding anything to the contrary in this Agreement, Buyer shall have the right at its election, prior to the Closing, and subject to reasonable coordination with Seller and the BOP Contractor(s), as applicable, with respect to access to the Site, to (i) procure and have delivered to the Site, or to an off-Site location of one or more of the Company's contractors or suppliers, on its own behalf, equipment and materials for the Project that are not required to be procured by Seller pursuant to the Scope of Work and Specifications or that Buyer and Seller otherwise mutually agree in writing will be procured directly by Buyer (collectively, "***Buyer-Furnished Equipment***"), and (ii) at Buyer's option install any or all of the Buyer-Furnished Equipment at the Site using Buyer's own workforce, contractors and subcontractors. Seller shall, and shall cause its contractor(s), as applicable, to provide Buyer and its contractors and subcontractors reasonable access to the Site for delivery, storage and installation of the Buyer-Furnished Equipment; provided, that in connection with such access Buyer shall (i) use commercially reasonable efforts to minimize any adverse impact of Buyer's, its contractors' and subcontractors' access to and work at the Site pursuant to this Section 3.24 on the continued prosecution of the Work by Seller, the Company and its Contractors, and (ii) comply with, and require its contractors and subcontractors to comply with, all procedures for accessing the Site, and all Site safety and security policies, applicable to the Company's Contractors generally. Buyer shall retain ownership of all Buyer-Furnished Equipment delivered to the Site or to any of the Company's contractors or suppliers. As between Buyer and Seller, from the delivery of any Buyer-Furnished Equipment to the Site until the Closing, Seller shall provide for the security and protection of, and shall bear the risk of loss of, all such Buyer-Furnished Equipment, and Seller shall, and shall cause the Company to, use the same care to protect and safeguard any Buyer-Furnished Equipment at any time located at the Site as it does with its own property, but in no event less than reasonable care in accordance with Prudent Industry Practices, and Seller shall be responsible for any damage to such Buyer-Furnished Equipment resulting from Seller's or the Company's failure to use such care. Seller

shall, and shall cause the Company to, ensure that (i) from and after delivery to the Site, all Buyer-Furnished Equipment and Buyer's interests therein are covered by the builder's risk insurance for the Project, and Buyer is named as an insured and loss payee with respect thereto, and (ii) the BOP Contract (or, if there is more than one BOP Contractor, the BOP Contract with the BOP Contractor whose Work will incorporate, or is otherwise most closely related to, the Buyer-Furnished Equipment) shall provide that the BOP Contractor is responsible for the security and protection of the applicable Buyer-Furnished Equipment in accordance with the applicable BOP Contract from delivery of the same to the Site until the Substantial Completion Date and require the applicable BOP Contractor to use at least the same degree of care to protect and safeguard the Buyer-Furnished Equipment as Seller is required to use pursuant to this Section 3.24(a).

(b) With respect to Buyer-Furnished Equipment that is delivered by Buyer to an off-Site location of any of the Company's contractors or suppliers, Seller shall, and shall cause the Company to, ensure that (i) the contract between the Company and such contractor or supplier provides that title to the Buyer-Furnished Equipment shall remain with Buyer, but such contractor or supplier bears the risk of loss of such Buyer-Furnished Equipment until such time as the risk of loss to the goods or work in which the Buyer-Furnished Equipment will be incorporated, or to which the Buyer-Furnished Work is directly related, passes to the Company, at which time, as between Buyer and Seller, Seller shall bear the risk of loss of all such Buyer-Furnished Equipment and the provisions of Section 3.24(a) shall apply upon delivery of such Buyer-Furnished Equipment to the Site; (ii) such contractor or subcontractor maintains insurance coverages of the minimum types and amounts as may reasonably be specified by Buyer taking into account the nature and value of the Buyer-Furnished Equipment and the work or goods into which it is to be incorporated or to which it is to be related, and the work or services to be performed by such contractor or supplier, naming Buyer as an additional insured with respect to applicable property, general liability, auto, pollution and umbrella policies; (iii) if Buyer-Furnished Equipment is delivered to an off-Site location of any of the Company's contractors or suppliers, the Company's contract with such contractor or supplier requires the contractor or supplier to promptly deliver such Buyer-Furnished Equipment to a location specified by Buyer, at Buyer's expense, if the Closing does not occur and this Agreement is terminated; and (iv) the builder's risk insurance for the Project covers the Buyer-Furnished Equipment during transport from the contractor or supplier to the Site and Buyer is named as an insured and loss payee with respect thereto.

(c) If the Closing does not occur and this Agreement is terminated, Buyer shall, [redacted] following the termination of this Agreement, or within such longer period as Buyer and Seller may mutually agree, uninstall (as applicable) and remove all Buyer-Furnished Equipment from the Site, or take delivery of any Buyer-Furnished Equipment then located off-Site at any of the Company's contractors or suppliers, at Buyer's expense. Seller shall provide Buyer and its contractors and subcontractors reasonable access to the Site following the termination of this Agreement for the purposes of uninstalling (as applicable) and removing all Buyer-Furnished Equipment from the Site; provided, that in connection with such access Buyer shall (i) use commercially reasonable efforts to minimize any adverse impact of Buyer's, its contractors' and subcontractors' access to and work at the Site pursuant to this Section 3.24 on the continued prosecution of work on the Project by Seller, the Company and its Contractors, and (ii) comply with, and require its contractors and subcontractors to comply with, all procedures for accessing the Site, and all Site safety and security policies, applicable to the Company's contractors generally. Notwithstanding the foregoing, Buyer and Seller may mutually agree in writing (with

neither Party having any obligation to so agree) that Seller or the Company will purchase any or all Buyer-Furnished Equipment from Buyer on mutually agreed terms following the termination of this Agreement, and Buyer shall not be obligated to uninstall or remove any Buyer-Furnished Equipment that Seller or the Company purchases from Buyer.

ARTICLE IV
OTHER PRE-CLOSING COVENANTS

Section 4.1 Consents and Reasonable Efforts. Buyer and Seller shall use their respective commercially reasonable efforts to obtain, or to assist in obtaining, all consents, approvals, transfers, permissions, waivers, orders, reissuances and authorizations of (and make all necessary filings or registrations with) all Authorities and other third parties which are required to be obtained or made by them in connection with the consummation of the transactions contemplated by this Agreement or in connection with the Project. Seller shall use commercially reasonable efforts to assist Buyer in identifying and obtaining all consents, approvals, permissions and waivers necessary to facilitate Buyer's implementation of the Assets Distribution to Buyer or Merger post-Closing, including, without limitation, using commercially reasonable efforts to obtain the approval of any applicable Authority to the transfer of any Permit from the Company to Buyer, and in furtherance thereof Seller shall use commercially reasonable efforts to cause the Company to include in all of the Company's Contracts customary provisions that allow the assignment of such Contract to an Affiliate of the Company and allow a merger of the Company with an Affiliate of the Company, in each case without the consent of or prior notice to the other party or parties thereto. Each Party agrees to, and agrees to cause its Affiliates and its and their respective Representatives to, consult and reasonably cooperate with and provide reasonable assistance to the other Party hereto in (i) defending against all Actions challenging this Agreement or the consummation of the transactions contemplated hereby, and (ii) taking commercially reasonable efforts to appeal or otherwise lift any Order (including any permanent or preliminary injunction or restraining order or other similar order) that restrains, enjoins or otherwise prohibits or makes illegal the consummation of the transactions contemplated by this Agreement. The Parties do not contemplate that approval for the transactions contemplated hereby will be required under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, will be required; however, if a filing for approval thereunder is required the Parties shall share equally the filing fees therefor. In addition, [redacted], Seller shall provide Buyer filing authority in the Company's eTariff database; provided, however, Buyer shall not utilize such filing authority until after Closing.

Section 4.2 Restrictions on Actions. Seller shall not, and shall cause the Company not to, take any of the following actions without the prior written consent of Buyer:

(a) sell, lease, license, assign, transfer or dispose of (including transfers to Seller or any Affiliate) any Company Assets other than (with respect only to this Section 4.2(a) and without limiting the other consent requirements of this Section 4.2) in the Ordinary Course of Business in connection with any casualty, or to the extent obsolete or no longer needed;

(b) make any material change in the accounting methods used by Seller for the Company, except as required by GAAP;

(c) merge, combine or consolidate with any other entity;

(d) (i) create, incur or assume any Indebtedness other than that which is satisfied and released in full prior to the Closing; (ii) mortgage, pledge or otherwise encumber, incur or suffer to exist any Encumbrance on any of its properties or assets, except for Permitted Encumbrances, (iii) create or assume any other Indebtedness, except trade accounts payable incurred in the Ordinary Course of Business, (iv) guaranty any Indebtedness of another Person or enter into any "keep well" or other agreement to maintain any financial condition of another Person, or (v) make any loans, advances or capital contributions to, or investments in, any other Person;

(e) redeem or repurchase, directly or indirectly, any Equity Securities of the Company or declare, set aside or pay any dividends or make any other distributions, except cash distributions, with respect to any Equity Interest in the Company;

(f) issue, sell or transfer any Equity Interest in the Company;

(g) acquire (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or collection of assets constituting all or substantially all of a business or business unit;

(h) solely with respect to the Company, make or change any material method of accounting with respect to Taxes, make or change any material Tax election, file any amended Tax Return (other than sales and use or personal property Tax Returns), enter into any closing or similar agreement, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment against the Company or its Assets;

(i) change or authorize any change in the Corporate Documents of the Company;

(j) hire any employee or adopt any Benefit Plan or incur any Liability under any Benefit Plan;

(k) undertake any recapitalization, reorganization, liquidation, dissolution or winding up, or not maintain the Company's existence as a limited liability company;

(l) engage in any line of business other than the continued design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project;

(m) [reserved]

(n) Agree or accept any terms or conditions with respect to the issuance of any Permit for the Company or Project that would, or would reasonably be expected to, have an Adverse Effect on the Project or the Company;

(o) (i) enter into any Property Agreement, or (ii) terminate or materially amend, modify or waive any material right under, any Property Agreement;

(p) accept the issuance of any Permit that requires the Company to have in place credit support (i.e., cash deposit, letter of credit, guaranty, etc.), in each case, that would remain outstanding after the Closing Date except as set forth on the Seller's disclosure schedules or as required by Applicable Law;

(q) fail to obtain, maintain or renew all necessary Permits required for the business of the Company;

(r) fail to comply: (i) in all material respects, with all applicable Laws, or (ii) with the terms of all Material Contracts and Property Agreements.

(s) fail to maintain all records of the Company consistent with past practice;

(t) settle or initiate any Action in a manner that would be contrary to Prudent Industry Practices;

(u) sell, assign, or otherwise transfer any Environmental Attributes to any Person;

(v) defer any payment obligations of the Company under the Interconnection Agreement;

(w) enter into any Contract (excluding Major Project Documents approved in accordance with Section 3.4(e)) that provides for any payment required to be made by the Company after the Closing Date, unless all such payments are Excluded Liabilities and the sole responsibility of Seller pursuant to this Agreement; or

(x) commit or agree orally or in writing to do any of the foregoing.

Nothing in this Section 4.2 shall in any way restrict Seller or its Affiliates from causing the Company to (i) use cash for the purposes of effecting lawful payments as required in connection with the construction, development, operation and maintenance of the Project, (ii) settle obligations between the Company and any of their respective Affiliates in accordance with Section 4.4, (iii) comply with applicable Law or the requests of Authorities with respect to the Project or the Company, or (iv) take any other action required by this Agreement.

Section 4.3 Notification of Completion or Failure of Conditions. Each Party to this Agreement will promptly notify the other Party of any satisfaction or failure of conditions under this Agreement; and each Party shall keep the other Party reasonably apprised with respect to the status of satisfaction of the notifying Party's obligations hereunder.

Section 4.4 Intercompany Obligations. At or prior to the Closing, Seller shall cause all intercompany account obligations (including Indebtedness) between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be settled by either causing such accounts and obligations to be (a) paid and discharged, including by netting of payables and receivables involving the same parties, or (b) cancelled without Seller or the Company paying any consideration therefor. In addition, other than the Ancillary Agreements, any Contracts listed on Schedule 4.4, or as otherwise authorized by Buyer in writing prior to the

Closing Date, Seller shall cause all intercompany Contracts between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be terminated and (i) neither the Seller, nor any Affiliate of Seller, shall have any surviving rights or obligations under any Contract between the Company, on the one hand, and Seller or any other Affiliate of Seller (other than the Company) on the other hand and (ii) the Company shall not have any surviving obligations under any such Contract.

Section 4.5 No Negotiations. From and after the Execution Date and prior to the earlier of (a) Closing or (b) termination of this Agreement by Buyer or Seller in accordance with this Agreement, Seller shall not, and shall cause its Affiliates and Representatives not to, initiate or solicit, directly or indirectly, any inquiries or the making of any proposal with respect to, engage in negotiations concerning, provide any confidential information or data to any Person with respect to, have any discussions with any Person or enter into any letter of intent or similar document or any written agreement or commitment relating to, an Acquisition Proposal and shall immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted prior to the date hereof with respect to any of the foregoing. If Seller or its Affiliates or Representatives receives any Acquisition Proposal from any Person, Seller will not engage in any discussions with such Person with regard to such Acquisition Proposal.

Section 4.6 Seller Credit Support.

(a) On the Execution Date, Seller shall deliver to Buyer the Seller Parent Guaranty, which shall continue in full force and effect [redacted]

(b) If a breach of Seller's obligations under this Agreement has occurred and Seller has not made a payment to Buyer when due under this Agreement, then in addition to any other remedy available to it, Buyer may draw on the Required Credit Support in accordance with the terms of such Required Credit Support. Any failure of Buyer to draw upon any such Required Credit Support shall not prejudice Buyer's rights to recover damages or other amounts in any other manner. Seller will bear all costs associated with providing the Required Credit Support.

(c) With respect to the Seller Parent Guaranty, if a Seller Parent Guaranty Default occurs, Seller shall be required to (i) provide replacement credit support in the form of a Letter of Credit, cash, a combination of Letter of Credit and cash, or such other form of credit support reasonably satisfactory to Buyer (collectively, "**Replacement Credit Support**"), [redacted]

[redacted]

[redacted]

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer, as of the Execution Date, the Notice to Proceed Date, and as of the Closing Date, as follows; provided, however, that to the extent any representation and warranty is specified as being given only as of a specific date, such representation and warranty shall be deemed to be made only as of such date:

Section 5.1 Corporate Existence and Powers. Seller is a limited liability company validly existing and in good standing under the Laws of the State of Delaware and is duly qualified or licensed to do business in each other jurisdiction where the actions to be performed by it under this Agreement and the Ancillary Agreements to which it is a party make such qualification or licensing necessary. Seller has all the requisite limited liability company power and authority to conduct its business with respect to the ownership of the Purchased Interests and the ownership, leasing and operation of the Project. Seller's Corporate Documents are in full force and effect, and Seller has Made Available to Buyer true and complete copies of the Seller's Corporate Documents. Seller is not in material violation of any of its Corporate Documents.

Section 5.2 Company Existence and Powers. The Company is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware and has all the requisite limited liability company power and authority to conduct its business as it is now being conducted and to design, develop, engineer, procure, permit, construct, install, test, commission, own, maintain and operate the Project. The Company is duly qualified or licensed to do business in each jurisdiction in which the ownership or operation of the Company Assets makes such qualification or licensing necessary. The Company has been engaged in no other business since its formation other than the development of the Project. Seller has Made Available to Buyer true and complete copies of the Company's Corporate Documents and such Corporate Documents are in full force and effect and have been maintained in accordance with good business practice. The Company is not in violation of any of its Corporate Documents.

Section 5.3 Authority; Ownership of Company. Seller has all requisite limited liability company power and authority to execute, deliver, and perform this Agreement and each Ancillary Agreement to be executed by it in connection with this Agreement and to perform the obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Seller has taken all action necessary to execute and deliver this Agreement and the Ancillary

Agreements, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Seller is necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Seller and, as of the Closing, the Ancillary Agreements to be executed by Seller will be duly executed and delivered by Seller. Assuming the due authorization, execution and delivery by Buyer of this Agreement and of the Ancillary Agreements, this Agreement and, as of the Closing, the Ancillary Agreements, as applicable, will constitute legally valid and binding obligations of Seller enforceable against Seller in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by general equitable principles.

Section 5.4 Consents and Approvals. Except as set forth in Schedule 5.4 (such items listed on Schedule 5.4 are referred to herein as the "***Seller Consents***"), no consent, approval or authorization of, Permit from, declaration, filing or registration with, or notice to, any Authority, or any other Person, is required to be made or obtained by (i) Seller in connection with the execution, delivery, performance and validity of this Agreement and the Ancillary Agreements to be executed by it and the consummation of the transactions contemplated hereby and thereby, or (ii) the Company in connection with the execution, delivery, performance and validity of this Agreement and the Ancillary Agreements to be executed by it and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

Section 5.5 No Conflicts. Neither the execution, delivery and performance by Seller of this Agreement or the Ancillary Documents to be executed by it nor the transfer of rights and consummation of the transactions contemplated hereby or thereby or the taking of any action contemplated to be taken by the Company under this Agreement and the Ancillary Agreements to be executed by it will result in (a) a violation or breach of or a conflict with (with our without notice or lapse of time, or both) any provision of Seller's or the Company's Corporate Documents; (b) assuming the receipt of the Seller Consents, a Default under any Material Contract, Property Agreement or Company Permit; (c) a material violation or breach (with or without notice or lapse of time, or both) by the Company or Seller of any applicable Laws or Permits, or (d) the creation or imposition of any Encumbrance on (i) the Company Assets (other than Permitted Encumbrances) or (ii) the Purchased Interests.

Section 5.6 Legal Proceedings. Other than as described in Schedule 5.6, there are no Actions or material Orders pending or, to Seller's Knowledge, threatened in writing, against or affecting the Project, the Real Property, the Company, the Company Assets or the Purchased Interests or Seller's transfer of the Purchased Interests or consummation of the transactions contemplated hereby.

Section 5.7 Compliance with Law. Other than as set forth on Schedule 5.7, neither Seller nor the Company has received any notification indicating any material violation of, and there is no, and has not been, any material violation of, or non-compliance with, any applicable Law, Order or Permit as such would apply to the Project, the Real Property, the Company, the Company Assets, the Purchased Interests or the transactions contemplated hereby.

Section 5.8 Environmental Matters. Other than as set out in Schedule 5.8: (i) the Company is, and since its formation has been, in material compliance with applicable Environmental Laws; (ii) as of the Execution Date, no Environmental Permits are yet required given the state of planning and implementation of the Project at that time, though certain Environmental Permits as listed in Schedule 5.8 may be required before Project-related land disturbing and construction activities begin at the Site or other Real Property; (iii) as of the Closing Date, the Company has obtained all Permits necessary under Environmental Law for the design, development, construction, installation, testing, commissioning, and ownership of the Project, (iv) none of Seller, the Company or Seller's other Affiliates has any material Liabilities, or is subject to any Order, under Environmental Laws, in each case relating to the Company Assets, and they are in material compliance with all Environmental Laws applicable to the Project and the Company Assets; (v) neither Seller, the Company nor Seller's other Affiliates has received any written notice of, nor to Seller's Knowledge have there been any threatened allegations of, a violation of or liability under Environmental Laws pertaining to the Project or the Company Assets; (vi)(a) there are no pending Actions with respect to the Project or Company Assets pursuant to Environmental Laws, (b) neither Seller, the Company, nor Seller's other Affiliates has received any written notice of intent to sue pursuant to Environmental Laws and (c) to Seller's Knowledge, there are no facts, circumstances, conditions or occurrences relating to the Project or the Company Assets that would reasonably be expected to form the basis of any such Action or notice; (vii) to Seller's Knowledge, (a) there has not been a Release of any Hazardous Materials at, on or otherwise affecting the Property or the Real Property in amounts or concentrations that would reasonably be expected to present a material Liability to the Company, or interfere with or impair the development, engineering, permitting, construction, installation, testing, commissioning, or ownership of the Project and (b) no Hazardous Materials are present in, on, about or migrating to or from the Property or the Real Property at amounts, levels, or concentrations, or creating conditions required to be disclosed to Authorities pursuant to Environmental Laws or requiring investigation, abatement or remediation pursuant to Environmental Laws, (viii) none of Seller, the Company, Seller's other Affiliates, or any of their respective contractors or subcontractors, have generated, stored, disposed of or Released any Hazardous Materials at, on, from or under the Property or the Real Property, in any case with respect to which could give rise to any material Liability to the Company under any Environmental Law; (ix) the Property and the Real Property are not subject to any Encumbrance imposed by any Authority in connection with the presence on or off such property of any Hazardous Material other than as explicitly disclosed in the Preliminary Title Report or any Updated Title Reports, in each instance as approved (or deemed approved) by Buyer; (x) no portion of the Property or the Real Property contains any above ground or underground storage tank, landfill, surface impoundment or similar device used for the management of wastewater or any Hazardous Material; and (xi) Seller has Made Available copies of all documents in Seller's possession related to the Project's environmental condition and the Company's compliance with Environmental Laws to Buyer.

Section 5.9 Right and Title to Purchased Interests. Seller is, and following the Closing Buyer shall be, the direct owner, holder of record, and beneficial owner of, and has good, valid and marketable title to, all of the Purchased Interests, free and clear of all Encumbrances. On the Closing Date, Seller has not done or suffered to be done anything whereby the Purchased Interests are or may be in any manner encumbered or charged by, through or under Seller or an Affiliate of Seller. As of the Closing Date, there are no Equity Securities held by any third party in respect of the Purchased Interests and the Company has not granted to any Person (other than Buyer) any

Equity Securities in respect of the Purchased Interests. On the Closing Date, Seller has the right, and limited liability company power and authority, to transfer and deliver to Buyer, and Buyer shall own (of record and beneficially) following the Closing, all direct and indirect right, title and interest in the Purchased Interests, free and clear of all Encumbrances. Except for the Purchased Interests, there are no outstanding Equity Securities in the Company. On the Closing Date, none of the Equity Securities in the Company is subject to any voting trust, member or partnership agreement or voting agreement or other agreement, right, instrument or understanding with respect to any purchase, sale, issuance, transfer, repurchase, redemption or voting of any Equity Securities in the Company.

Section 5.10 Right and Title to Company Assets. Except as set forth on Schedule 5.10, the Company owns all valid and legal right, title and interest in, to and under the Company Assets held as of the Execution Date, the Site Finalization Date, the Notice to Proceed Date and the Closing Date, free and clear of all Encumbrances other than Permitted Encumbrances.

Section 5.11 Property Agreements. Schedule 5.11 contains a true, correct and complete list of all of the Property Agreements that exist as of the Execution Date. As of the Execution Date Seller has Made Available to Buyer, and as of the Site Finalization Date, the Notice to Proceed Date and the Closing Date, Seller shall have Made Available to Buyer, true, correct and complete copies of the Property Agreements together with all amendments, modifications, or supplements thereto, all of which are listed and described on Schedule 5.11 attached hereto, as updated on the Site Finalization Date, the Notice to Proceed Date and the Closing Date in accordance with Section 3.3(b). Except as set forth on Schedule 5.11, as of the Execution Date, the Site Finalization Date, the Notice to Proceed Date and the Closing Date:

(a) each Property Agreement is in full force and effect and is legal, valid, binding and enforceable against Company in accordance with its terms, and, to Seller's Knowledge, is an enforceable obligation of the other party or parties thereto;

(b) none of Seller, the Company, or Seller's other Affiliates, is in Default under any Property Agreement and, to Seller's Knowledge, no other party to any Property Agreement is in Default, and no event will have occurred which, with notice or lapse of time or both, would constitute a Default thereunder by Seller, the Company, or, to Seller's Knowledge, any other party thereunder;

(c) none of Seller, the Company, or Seller's other Affiliates, has repudiated any provision of any Property Agreement, and neither Seller nor the Company has received notice from any party to any Property Agreement that such other party has repudiated any provision thereof;

(d) none of Seller, the Company, or Seller's other Affiliates, has received written notice of any breach of or failure to perform any duties that has not been cured or termination, cancellation, or non-renewal as to any Property Agreement;

(e) as of the Closing Date, (i) no Property Agreement has been (x) transferred or conveyed, or (y) amended, modified or supplemented, in each instance except as disclosed in

writing to Buyer and approved by Buyer in writing and (ii) no Property Agreement is subjected to any Encumbrances, except for Permitted Encumbrances;

(f) all Subordination Agreements and all Crossing Agreements have been obtained; and

(g) the Company is a party to each of the Property Agreements.

Section 5.12 Real Property.

(a) As of the Execution Date, Site Finalization Date, the Notice to Proceed Date, and the Closing Date, except for the Company's rights under the Land Contracts set forth on Schedule 5.12(a), (i) the Company does not own real property, nor is the Company a lessor or sub-lessor of any real property, (ii) the Company is not a party to any Contract providing it with an interest in real estate, other than the Land Contracts set forth on Schedule 5.12(a); and (iii) neither Seller nor any Affiliate of Seller or the Company owns any real property on which the Facilities are located.

(b) As of the Site Finalization Date, the Notice to Proceed Date, and the Closing Date, except as set forth on Schedule 5.12(b), the Company has obtained all required zoning and land use approvals from applicable Authorities for each parcel of Property necessary to permit the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance and operation of the Facilities thereon in accordance with the terms of this Agreement, the Site Plan, and the Site Operating Plan, and Seller has not received any notice of any violation of Laws with respect to the Facilities or the Property. To Seller's Knowledge, as of the Site Finalization Date and the Closing Date there is no pending action before any Authority to change the applicable zoning, land use or building ordinances or any other Laws or applicable land use approvals affecting the Property.

(c) As of the Site Finalization Date, the Notice to Proceed Date, and Closing Date, to Seller's Knowledge, no party has the right to use the surface of the Property for the exploration, development or extraction of minerals or any other subsurface substances, except to the extent the same are or will be affirmatively insured against by the Title Policy under standard mineral endorsements without the Title Company taking exception in such endorsement for any of the Schedule B exceptions in the Title Policy. There are no existing facilities or operations, or to Seller's Knowledge, proposed facilities or operations for extraction of oil, gas or other minerals that would reasonably be expected to adversely interfere with the construction, completion or operation of the Project in any material respect.

(d) As of the Closing Date, neither the Seller (as related to the Project or the Company Assets) nor the Company owns, holds, is obligated under, or is a party to, any option, right of first refusal, or other contractual right to purchase, acquire, sell, assign, or dispose of any real property or interest therein except pursuant to the Land Contracts.

(e) Neither the Seller, the Company, nor any of the Seller's other Affiliates, has received any written notice of any pending condemnation action with respect to all or any portion of the Real Property, and, to Seller's Knowledge, there are no existing or threatened condemnation

or other legal proceedings affecting the use of the Real Property by an Authority with jurisdiction over or affecting all or any part of the Real Property.

(f) As of the Closing Date, the Site Plan that Seller has provided to Buyer represents a true, accurate, and complete depiction of the Project, and: (i) the location and operation of the Facilities are in material compliance with all applicable Laws and equipment manufacturer's specifications and operating manuals (including but not limited to, any and all setback and capacity requirements); (ii) [reserved]; (iii) except as set forth in Schedule 5.12(f), as of the Execution Date, the Site Finalization Date, the Notice to Proceed Date, and the Closing Date, the Project has sufficient (including physical and legal) access to dedicated public roads to meet all construction, repair, and operational needs of the Project (including but not limited to, transportation or equipment to the Site and access to each of the Facilities for purposes of installation, repair, and maintenance). As of the Closing Date, the Project (including any related transmission or distribution lines connected thereto) is or will be authorized to cross any existing easements (including but not limited to, existing oil and gas pipelines and existing utility transmission and distribution lines) pursuant to existing Crossing Agreements. Each land parcel subject to a Land Contract is contiguous along at least one entire boundary to the boundary of another land parcel subject to a Land Contract.

(g) As of the Site Finalization Date, the Notice to Proceed Date and the Closing Date, the Company will own the fee interests in the parcel on which the O&M Facility will be located and the parcel on which the Project substation is located, and, in each case, will have paid the purchase price or other applicable consideration therefor.

(h) As of the Site Finalization Date, the Notice to Proceed Date and the Closing Date, the Property owned, leased, or held in easement by the Company (i) covers the entire Site (including fee ownership of the parcels where the O&M Facility and Project substation will be located), (ii) comprises all of the real property interests and other real property rights that are necessary in connection with the development, construction, installation, interconnection, completion, ownership, operation and to the extent reasonably foreseeable, the maintenance of the Project, as applicable, in accordance with all Laws, and (iii) is sufficient to enable the Project to be located, constructed, interconnected, and operated as contemplated hereunder, and to provide legal and physical ingress and egress rights to and from a public right of way for the construction, operation and maintenance of the Project. All Land Contracts anticipated to be entered into by the Company after the Execution Date have been disclosed to Buyer and Seller shall negotiate the final form thereof in good faith prior to the NTP Closing Date. With respect to any real property owned in fee by the Company, no deed or other instrument or contract pursuant to which the Company acquired or agreed or elected to acquire title to such property reserves or grants any Encumbrance (including without limitation any purchase option, right of first refusal or other preemptive right or restriction on transfer) other than Permitted Encumbrances or as specifically approved by Buyer in writing.

Section 5.13 Material Contracts.

(a) Schedule 5.13 contains a true, correct and complete list of all Contracts (other than the Property Agreements or Permits) to which the Company is a party or by which the Company is bound, which relate primarily to the Company Assets or the Project, or which are or

shall be included in the Company Assets, including each of the following Contracts (each individually, a "***Material Contract***" and collectively, the "***Material Contracts***"). Seller has Made Available to Buyer a correct and complete copy of each Material Contract.

(i) Major Project Documents;

(ii) any Contract for the operation or maintenance of the Project or any of the individual Facilities;

(iii) any Contract relating to the interconnection of the Project, including the Interconnection Agreement;

(iv) (x) any Contracts that are or evidence Indebtedness owed by the Company or to the Company or (y) any Contracts that provide for the Company to provide any surety, pledge, guarantee, bond, letter of credit or other credit support;

(v) any Contracts for a commodity, currency or interest rate hedge, exchange or similar instrument, including any exchange traded, over-the-counter or other swap, cap, floor, collar, futures contract, forward contract, option or other derivative financial instrument, or Contract relating to emissions allowances, emission offsets or credits, renewable energy credits, ITCs or other tax credits or benefits;

(vi) other than the [redacted] Contracts governing a partnership, joint venture, joint development or limited liability company, setting forth arrangements between the members or partners thereto, other than the Corporate Documents of the Company;

(vii) Contracts that are power purchase or sale agreements (including sales of capacity, energy and ancillary services), renewable energy credit purchase and sale agreements, shared facilities agreements (other than the Shared Facilities Agreement), common facilities agreements, battery energy storage component purchase agreements, design, engineering, procurement and construction agreements, agreements for the purchase of inverters, transformers and other material pieces of equipment, project management agreements, development agreements, warranty agreements, operation, maintenance and service agreements, agreements that provide for teaming or similar agreements in connection with the development of the Project and exclusivity agreements with any contractor, inverter manufacturer, battery energy storage component manufacturer or other supplier, utility, contractor, or other third party;

(viii) all Contracts that prohibit or require the consent of any counterparty thereto to (i) a change of control of the Company, (ii) the assignment of such Contract by the Company to an Affiliate of the Company, or (iii) the merger of the Company and an Affiliate of the Company;

(ix) any Contract under which the consequences of a Default by the Company that is not waived or cured within the time, if any, provided in such Contract would reasonably be expected to have a Material Adverse Effect;

(x) any Contract the primary purpose of which is for the Company to indemnify, defend, hold harmless or reimburse any Loss incurred by another Person;

(xi) any Contract that was not entered into in the Ordinary Course of Business of the Company;

(xii) any Contract pursuant to which the Company is granting or being granted any material Intellectual Property license;

(xiii) any Contract not otherwise described in this Section 5.13 providing for an express undertaking by the Company to be responsible for consequential, special, or liquidated damages or penalties;

(xiv) any Contract containing an effective power of attorney granted by the Company;

(xv) any Contract the primary purpose of which is the settlement, release, compromise or waiver by the Company of any material rights or claims it has against any other Person or any material Liabilities of any other Person to the Company;

(xvi) any Contract relating to the retention of any consultant of the Company that is performing ongoing services for the Company or with respect to which any amounts remain to be paid by the Company;

(xvii) any Contract not otherwise described in this Section 5.13 containing any obligation of confidentiality or nondisclosure between the Company, on the one hand, and any other Person, on the other hand, for the benefit of the Company or such other Person;

(xviii) Contracts that include non-competition, non-interference, non-solicitation, exclusivity or similar provisions which restrict the ability of the Company (or Buyer after the Closing) to conduct the Business;

(xix) Contracts for the sale of any tax credits (including any ITCs);

(xx) Contracts that are otherwise material to the Business and to which the Seller, the Company, or any of its Affiliates is a party;

(xxi) any Contract with outstanding earn-out, payments, contingent payments or similar payment obligations owing from the Company;

(xxii) Contracts, other than those set forth in the foregoing clauses (i) through (xxi), each of which expressly requires future payment to or from the Company of [redacted] or more; and

(xxiii) any Contract constituting an amendment, supplement, or modification (whether oral or written) in respect of any of the foregoing clauses (i) through (xxii);

Subject to Section 3.3(b) and all other obligations, requirements, limitations, and any review and approval rights under this Agreement with respect to Material Contracts, and upon obtaining Buyer's consent or approval as otherwise required under this Agreement with respect thereto, Seller shall provide an updated Schedule 5.13, and shall have Made Available all Material Contracts, on the Notice to Proceed Date and the Closing Date.

(b) Each Material Contract is a legal, valid, binding, obligation, enforceable against the Company in accordance with its terms, and is in full force and effect, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by general equitable principles, and to Seller's Knowledge, each Material Contract is an enforceable obligation of the other party or parties thereto.

(c) There is no Default by Seller, the Company or, to Seller's Knowledge, any other party to any Material Contract, and no event has occurred which, with notice or lapse of time or both, would constitute a Default thereunder by Seller, the Company or, to Seller's Knowledge, any other party thereunder, and neither the Seller, the Company, nor any of the Seller's other Affiliates, has received written notice of any such Default or event;

(d) Neither Seller, the Company, nor any of the Seller's other Affiliates, has repudiated any provision of any Material Contract and neither Seller, the Company, nor any of the Seller's other Affiliates, has received written notice that any other party has repudiated any provision of any Material Contract.

(e) Neither Seller, the Company, nor any of the Seller's other Affiliates, has received notice of any termination, cancellation, or non-renewal as to any Material Contract, and no party to any of the Material Contracts has exercised or threatened in writing to exercise any termination rights with respect thereto.

(f) Neither Seller, the Company, nor any of the Seller's other Affiliates, has received written notice of any right or intent on the party of any other Party to a Material Contract to dispute any amount to be paid by such party under such Material Contract.

(g) Neither Seller, the Company, nor any of the Seller's other Affiliates, has a material outstanding claim or cause of action (including relating to availability), whether for liquidated damages or other monetary damages or otherwise, under any Material Contract, and neither Seller, the Company, nor any of the Seller's other Affiliates, has received notice of any claim or cause of action (including relating to availability) against it, whether for liquidated damages or other monetary damages, under any Material Contract.

(h) No Material Contract has been (i) transferred or conveyed, (ii) amended, modified, or supplemented, except as disclosed in writing to Buyer, or (iii) subjected to any Encumbrance, except for Permitted Encumbrances.

(i) Neither Seller, the Company, nor any of the Seller's other Affiliates, has received notice of any significant disputes in effects as to any Material Contract except as disclosed in writing to Buyer.

(j) There are no outstanding indemnification claims or payments, purchase price payments or purchase price adjustments (including earn-outs and similar post-closing adjustments) to be made to or by any Person with respect to the Project or Project Assets for which Seller or its Affiliates, including the Company is liable.

The provisions of this Section 5.13 shall not apply to Property Agreements.

Section 5.14 Permits.

(a) As of the Execution Date (to Seller's Knowledge solely on the Execution Date) and as of each of the Notice to Proceed Date and the Closing Date, Part A of Schedule 5.14(a) is a true and complete list of all Permits required to design, develop, engineer, procure, permit, construct, install, test, commission, own, maintain and operate the Project (collectively, the "***Company Permits***"), provided the Company Permits shall not include Permits (1) that are ministerial in nature and such other non-discretionary Permits commonly obtained by the EPC Contractor, and (2) which Buyer may need by nature of (i) Buyer being a public utility or which may be obtained only by Buyer for itself or for the Company with respect to the transfer of the Purchased Interests or Project or operation of the Company after the Closing, (ii) Permits necessary to be obtained by Buyer in connection with or as contemplated by this Agreement, and (iii) the ownership of the Project after the Closing (collectively, the "***Buyer Permits***"). Part B of Schedule 5.14(a) is a true and complete list of all Company Permits issued to or in the name of the Company as of each of the Execution Date, the Notice to Proceed Date, and the Closing Date, as applicable (collectively, the "***Issued Company Permits***"). Part C of Schedule 5.14(a) is a true and complete list of all Permit Applications that have been applied or filed for in relation to the Project by the Company that are not yet obtained as of each of the Execution Date and the Notice to Proceed Date, as applicable (collectively, the "***Requested Permit Applications***"). As of the Execution Date, Notice to Proceed Date, and Closing Date, copies of all Issued Company Permits obtained as of such date have been obtained and Made Available to Buyer.

(b) As of the Execution Date, Notice to Proceed Date, and Closing Date, with respect to each Issued Company Permit as of such date, except as set forth on Schedule 5.14(b):

(i) Each Issued Company Permit is valid, in full force and effect and final and unappealable.

(ii) Seller, the Company and/or the Project, as applicable, are in material compliance with the terms and conditions of each Issued Company Permit, and, to Seller's Knowledge, all other parties to each Company Permit are in material compliance with the terms and conditions of such Issued Company Permit, and, to Seller's Knowledge, no event has occurred which with notice, lapse of time or both

would constitute non-compliance in any material respect with such material terms and conditions or cause any material and adverse modification, revocation, suspension or termination of any Issued Company Permit.

(iii) No Action is pending, and neither Seller nor the Company has received any written deficiency notice, demand or notice challenging or, to Seller's Knowledge, threatening in writing, which, in any of the foregoing cases, challenges the legality, validity, or enforceability of any Issued Company Permit, or that attempts to modify in any material and adverse manner the requirements pertaining to any Issued Company Permit or Requested Permit Application.

Section 5.15 Finders. No Person has any claim against the Seller or the Company for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement.

Section 5.16 Intellectual Property. The Company owns or possesses sufficient rights to use all Intellectual Property used in connection with the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project, free and clear of all Encumbrances other than Permitted Encumbrances, and, to Seller's Knowledge, the utilization of such Intellectual Property does not infringe upon or violate the Intellectual Property rights of any other Person. Other than as set forth in Schedule 5.16, all material Company Assets are free of any third-party rights relating to Intellectual Property, and the utilization by the Company of the Company Assets does not infringe upon or violate the Intellectual Property rights of any other Person.

Section 5.17 [Reserved].

Section 5.18 Insurance. The insurance maintained by or on behalf of the Company with respect to the Project satisfies the requirements specified in Schedule 3.14 (the "***Project Insurance Policies***"). Such insurance coverage is in full force and effect, all premiums with respect thereto covering all periods up to and including the date as of which this representation is being made that are required to have been paid as of such date have been paid (other than retroactive premiums which may be payable with respect to commercial general liability insurance policies), and no written notice of cancellation or termination has been received by the owner or holder of any such insurance coverage. No pending Actions by or for the benefit of the Company exist under any such insurance coverage covering the Company.

Section 5.19 Reports. Seller has Made Available to Buyer true, correct and complete copies of all final material reports, studies, and tests (and all amendments and supplements thereto) related to the Project prepared, commissioned by, or delivered to, the Company, Seller or any Affiliate of Seller that address any of the following matters: Permits, the Real Property, design studies, geotechnical studies, transportation studies, cultural resources studies, transmission or interconnection studies, wildlife studies, the environmental condition of the Property, mitigation and conservation plans, compliance with Environmental Law, Federal Aviation Administration analyses, state department of transportation analyses, zoning studies, noise assessments, radio facilities studies, visual impact or flicker studies or wetlands studies (collectively, the "***Reports***"). Without limiting the representation in the immediately preceding sentence, as of the Execution

Date, Seller has Made Available true, correct and complete copies of all final Reports and relevant status updates listed on Part A of Schedule 5.19, and as of the Closing Date, Seller has Made Available true, correct and complete copies of all Reports and relevant status updates listed on Part B of Schedule 5.19.

Section 5.20 Tax Matters.

(a) There are no Encumbrances for Taxes on the Purchased Interests or the Company Assets (other than Permitted Encumbrances). No proceedings are pending, and no proceedings have been threatened in writing with respect to Taxes of the Company or relating to the Project or the Company Assets. There are no ongoing or pending or threatened (to Seller's Knowledge) Tax audits, examinations, claims, assessments or proposed deficiencies against Seller or the Company or with respect to the Project. No extensions of the statute of limitations have either been requested or granted with respect to Taxes of the Company or relating to the Purchased Interests or the Company Assets. Neither Seller (with respect to the Business, the Project or the Company) nor the Company has applied to any Tax Authority for any Tax ruling, closing agreement, technical advice memorandum or similar agreement, including any application for a private letter ruling that has been withdrawn.

(b) All material Tax Returns required to be filed by the Company or with respect to the Project or Company Assets have been filed on a timely basis and all such Tax Returns are correct and complete in all material respects. All Taxes of the Company or with respect to the Project or the Company Assets that are due and payable have been timely paid in full. Seller is not a foreign person (as that term is defined in Section 1445 of the Code and the Treasury Regulations promulgated thereunder). Seller has Made Available to Buyer true and complete copies of all material Tax Returns filed by or on behalf of the Company.

(c) The Company has complied in all material respects with all Tax laws relating to the payment, reporting and withholding of Taxes in connection with amounts paid or owing to any employee, independent contractor, creditor, or other Person. The Company has retained all required Tax exemption certificates and other documentation in respect of any material payments made by the Company for which an exemption to withholding was claimed.

(d) The Company (i) has never been a member of any consolidated, combined, unitary or similar group and (ii) has no Liability for the Taxes of any Person other than the Company (i) under Treasury Regulations Section 1.1502-6 (or any similar provision of Law) or (ii) as a transferee or successor, by contract or otherwise.

(e) None of the Company, the Project or the Company Assets are subject to any closing agreements, private letter rulings or similar agreements or rulings with or from by any Authority with respect to Taxes.

(f) No notice has been received in writing from any Authority in any jurisdiction in which the Company does not file a Tax Return that the Company may be subject to taxation by that jurisdiction that would be covered by such Tax Return.

(g) The Company has not filed a power of attorney with any Authority with respect to Tax matters that remains currently in force.

(h) The Company has (i) collected all sales, use, value added, goods and services, and similar Taxes required to be collected and (ii) remitted all such Taxes collected to the appropriate Tax Authority to the extent required by applicable Laws. All material resale certificates, exemption certificates and other documentation required to be collected by the Company to qualify for any exemption from the collection of sales, use, value added, goods and services, and similar Taxes claimed or asserted with respect to any taxable period ending on or prior to the Closing Date (or the portion of a Straddle Period ending on the Closing Date) have been properly and timely collected and maintained.

(i) Schedule 5.20(i) sets forth any Tax incentive, Tax abatement or other relief from Taxes granted to, or applied for by, the Company. All material Contracts, memoranda and other documentation related to any such Tax incentive, Tax abatement or other relief from Taxes have been provided to Buyer.

(j) Since formation, the Company is and has been classified at all times as disregarded as an entity separate from its owner for U.S. federal, state and local Tax purposes, and no election has been filed to treat the Company as an association taxable as a corporation for U.S. federal, state or local Tax purposes.

(k) The Company has not been a party to, or a promotor of, a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b).

(l) Neither Seller (with respect to the Company) nor the Company is a party to or has any liability under any Tax allocation, Tax sharing agreement, Tax indemnity agreement or similar agreement.

(m) Seller is not a Disqualified Person, or, if Seller is a disregarded entity for U.S. federal income tax purposes, its owner for U.S. federal income tax purposes is not a Disqualified Person.

(n) The Company has held the Company Assets (other than the Excluded Assets) and the Project solely for resale. Seller holds its interest in the Company and the Project (other than the Excluded Assets) solely for resale.

(o) No more than a de minimis portion of the Company Assets have been previously used, except in the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, operation and maintenance activities required by the terms of this Agreement.

(p) None of the Project or any property that is part of the Project has been Placed In Service (within the meaning of Section 48 of the Code) of the Project or any property that is part of the Project.

(q) Neither the Project nor any other Company Asset is currently, or will be at any time on or prior to the Closing Date:

(i) subject to the alternative depreciation system within the meaning of Section 168(g) of the Code;

(ii) "tax-exempt use property" within the meaning of Section 168(h) of the Code;

(iii) imported property of the kind described in Section 168(g)(6) of the Code; or

(iv) "public utility property" within the meaning of Section 168(f)(2) of the Code.

(r) Neither the Project nor the Company has benefited (directly or indirectly) from any tax-exempt bonds within the meaning of Section 45(b)(3) of the Code.

(s) No grants or proceeds of any rebate programs have been provided by the United States, a state, a political subdivision of a state, or any other Authority for use in the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning or financing of the Project or with respect to which Seller or the Company is the beneficiary and no application with respect to any such grant or rebate has been filed or submitted. No proceeds of any issue of state or local government obligations have been used (directly or indirectly) to provide financing for the Project. Neither the Project nor the Company has benefited (directly or indirectly) from any government grants, tax-exempt financing or subsidized energy financing that was issued prior to January 1, 2009 within the meaning of Section 48(a)(4)(C) of the Code.

(t) None of Seller, the Company, nor any Affiliate of Seller has applied for, claimed or received any ITC or other federal, state, local or other grant, financing, tax credit, or similar incentive, including any investment tax credit, production tax credit, or financing described in Section 48(a)(4) or 45(b)(3) of the Code, with respect to the Project.

(u) Neither Seller nor any Affiliate of Seller has taken, nor does Seller or any Affiliate of Seller intend to take, a position on any Tax Return that is inconsistent with the Project, including the Company Assets, being Placed in Service by Buyer and the "original use" (within the meaning of Section 48 of the Code) of the Project and any property that is part of the Project, including the Company Assets, commencing with Buyer. Neither Seller nor any Affiliate of Seller (or any direct or indirect shareholder, member, partner or owner) has claimed, nor does Seller or any Affiliate of Seller (or any direct or indirect shareholder, member, partner or owner) intend to claim, on any Tax Return any depreciation or amortization deductions, ITCs, grant under Section 1603 of the American Recovery and Reinvestment Act of 2009, or any other federal or state tax credits or deductions that are available as a result of ownership or operation of the Project or any property that is part of the Project, including the Company Assets.

(v) Each certificate delivered to Buyer pursuant to Section 3.21 and Section 3.22 is true and correct in all respects as of the Closing Date, in each case determined without regard to any [redacted] that occurred after the date such certificate was delivered to Buyer.

(w) The PWA Requirements have been satisfied in all respects as of the Closing Date with respect to the ITC Qualified Facility.

(x) The Domestic Content Requirements have been satisfied in all respects as of the Closing Date with respect to the ITC Qualified Facility.

(w) The Seller Start of Construction Certificate (Execution Date) is true and correct in all respects as of the Execution Date, (ii) the Seller Start of Construction Certificate (NTP Date) is true and correct as of the NTP Date, and (iii) the Seller Start of Construction Certificate (Closing Date) is true and correct as of the Closing Date, in each case other than with respect to any changes that are not reasonably likely to cause ITCs with respect to the Project to be materially reduced or otherwise adversely affected.

Section 5.21 [Reserved].

Section 5.22 Sufficiency of Assets; Substantially Complete Project; No Other Business.

(a) As of the Closing Date, the location and operation of the Facilities are in material compliance with applicable equipment manufacturers' specifications and operating manuals.

(b) The Company has since its formation been engaged solely in the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project and has held (i) the Company Assets (other than the Excluded Assets) solely for the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project, and (ii) the Project solely for resale.

Section 5.23 Sufficient Funds.

At all times prior to the Closing Date, Seller will have sufficient funds available, or will maintain sources for sufficient funding capacity, to meet the financial requirements from time to time required (as and when the same become due and owing, and subject to any applicable grace periods or cure periods) to continue the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project to completion pursuant to this Agreement and to otherwise consummate the transactions contemplated by this Agreement as and when so required hereby.

Section 5.24 Financial Statements; No Undisclosed Liabilities; Absence of Certain Changes.

(a) Financial Statements. Attached as Schedule 5.24(a) are true and correct copies of the Company's unaudited balance sheet (the "***Balance Sheet***") as of the Balance Sheet Date, and the related unaudited statement of income and cash flows for the year-to-date period then ended, each certified by an officer or authorized representative of the Company (together with the Balance Sheet, the "***Financial Statements***"). The Financial Statements (i) have been prepared in accordance with GAAP, using the same accounting principles, policies and methods as have been historically used in connection with the calculation of the items reflected thereon, and (ii)

present fairly in all material respects the financial condition and results of operations of the Company as of the Balance Sheet Date.

(b) No Undisclosed Liabilities. The Company has no Liability that would be required to be disclosed in a balance sheet prepared in accordance with GAAP, except Liabilities (i) which have been incurred since the Balance Sheet Date under Material Contracts disclosed on Schedule 5.13(a), (ii) reflected in the Financial Statements, (iii) incurred pursuant to this Agreement or permitted to be incurred by this Agreement, or (iv) disclosed on Schedule 5.24(b).

(c) Absence of Certain Changes. Except as set forth on Schedule 5.24(c) or as disclosed to Buyer in writing as of the Execution Date, since the Balance Sheet Date, the Company has conducted its business and operated the Project in the Ordinary Course of Business and there has not been any Material Adverse Effect.

(d) No Indebtedness. Company does not have any Indebtedness.

Section 5.25 Employees; Employee Benefits. The Company has never (a) had any employees or (b) sponsored, maintained or contributed to any Benefit Plan. There do not exist now, nor do any circumstances exist that reasonably could be expected to impose, any Liability on the Company with respect to any Benefit Plan that any Person maintains or in the past maintained (or to which such Person ever contributed or was required to contribute) if such Person, together with the Company, could be deemed a single employer within the meaning of Section 4001(b) of ERISA.

Section 5.26 Labor Matters. Except as set forth in Schedule 5.26:

(a) The Company is not nor has ever been a party to any collective bargaining agreement or other labor Contract.

(b) There has not been, there is not now pending or existing, and, to Seller's Knowledge, there is not threatened, any strike, slowdown, picketing, work stoppage, employee grievance process, organizational activity, or other material labor dispute involving the Project, or the Company.

(c) To Seller's Knowledge, no event has occurred or circumstance exists that would reasonably be expected to provide the basis for any work stoppage or other material labor dispute with respect to the Project.

(d) There has not been, and there is not now pending or, to Seller's Knowledge, threatened against the Company, any material Action relating to the alleged violation of any applicable Law pertaining to labor relations, employment matters, discrimination or sexual harassment, including any charge or complaint filed with the National Labor Relations Board, the Equal Employment Opportunity Commission or any other similar Authority, and no event has occurred or circumstances exist that would reasonably be expected to provide the basis for any such Action.

(e) No application or petition for an election, request for recognition, or for certification of a collective bargaining agent is pending with respect to the Project.

(f) There has not been, there is not pending or existing, and to Seller's Knowledge there is not threatened, any jurisdictional claim or dispute with respect to work performed on the Project.

Section 5.27 Investment Company Act. The Company is not an "investment company" required to be registered under, or a company controlled by an "investment company" required to be registered under, the Investment Company Act of 1940.

Section 5.28 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Seller or the Company. Neither the signing of this Agreement nor the Closing of the transactions contemplated by this Agreement and the Ancillary Agreements requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction of any reorganization or any bankruptcy Action affecting Seller or the Company.

Section 5.29 Affiliate Transactions. Except as set forth on Schedule 5.29, none of Seller or any of its Affiliates (other than the Company) or any officer, director, manager, member shareholder, employee or agent of Seller or any of its Affiliates (other than the Company) (a) is a party to any Contract with the Company or (b) has any interest in any Asset used in or pertaining to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project or the Business of the Company.

Section 5.30 Subsidiaries. The Company does not have any Subsidiaries or own Equity Securities in any Person.

Section 5.31 Bank Accounts. Schedule 5.31 contains a correct and complete list of (a) the bank accounts and safe deposit boxes of the Company, if any, and (b) the Persons authorized to sign checks drawn on such accounts. As of the Closing Date, Seller shall have taken all actions necessary to cause all of the Company's bank accounts to be closed on or before the Closing Date or as soon as possible after the Closing Date and, except as provided in Section 2.4(b), any funds in any such bank accounts will be paid to Seller or its designee.

Section 5.32 No Damage. On the Closing Date and the Substantial Completion Payment Date, there has been no material damage to or destruction of the Project unless such damage or destruction has been repaired such that on the Closing Date the Project satisfies the requirements applicable to achieving Mechanical Completion or Substantial Completion, as applicable.

Section 5.33 Credit Support. Schedule 5.33 sets forth a true and complete list of all equity contribution agreements, letters of credit and other such guaranties, comfort letters, "*keep whole*" agreements, bonds or other financial security arrangements, or credit support arrangements that have been or will be posted by Seller or its Affiliates (including the Company) in connection with the Project.

Section 5.34 No Other Agreements to Sell the Company Assets. Other than Contracts for the sale of unusable or immaterial Company Assets not necessary for the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project, Seller has no Liability to any other Person or any nonbinding agreement in principle, letter of intent or similar understanding with any Person to sell

or effect a sale of all or any portion of the Purchased Interests or the Company Assets or to enter into any agreement or cause the entering into of any agreement with respect to the foregoing.

Section 5.35 Consents. As of the Closing Date and the Substantial Completion Payment Date, there are no outstanding material third party consents, approvals, authorizations, waivers, filings, notices, registrations, declarations or similar actions of, with or by any Person which have not been previously obtained and Made Available, including those involving Real Property, Material Contracts, Property Agreements, or Company Permits, which are required for the Project to achieve Mechanical Completion or Substantial Completion, as the case may be, or the completion of the transactions contemplated by this Agreement and the Ancillary Agreements, or the consummation of the Assets Distribution to Buyer or Merger.

Section 5.36 Corporate Records. Seller has Made Available to Buyer a true, complete and correct copy of the Corporate Records of the Company. Such Corporate Records contain true, correct and complete copies of the Corporate Documents, material meetings and consents in lieu of meeting of the members or managers of the Company, and such records accurately reflect in all material respects all transactions referred to in such minutes and consents and have been maintained in accordance with good business practices.

Section 5.37 Foreign Corrupt Practices Act; Export Control; Anti-Boycott Laws.

(a) Neither Seller, the Company nor any of their respective Representatives has (i) violated any provision of any applicable anti-bribery or anti-corruption law including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the U.K. Bribery Act 2010 or (ii) directly or indirectly offered, paid, promised to pay, or authorized the offer, payment or promise of any advantage, financial or otherwise, or thing of value to any Authority or to another party while knowing or having reason to know that all or a portion of such advantage or thing of value would be offered, given, or promised to an Authority for the purposes of (A) (1) influencing any act or decision of such Authority in his or her official capacity or (2) rewarding the improper performance by any Person of its business or official activities; or (B) assisting Seller, any member of Seller or the Company in obtaining or retaining business or a business advantage for Seller, any member of Seller or the Company.

(b) Seller and the Company have complied with all U.S. and applicable international economic and trade sanctions, including any sanctions or regulations administered and enforced by the U.S. Department of State, the U.S. Department of the Treasury (including the Office of Foreign Assets Control) and any executive orders, rules and regulations relating thereto. Neither Seller nor the Company has engaged in any dealings or transaction with any Person that is on the Office of Foreign Assets Control's Specially Designated Nations and Blocked Persons List.

(c) The Company has at all times complied in all material respects with all applicable Laws relating to export control and trade sanctions or embargoes. The Company has not violated the anti-boycott prohibitions contained in 50 U.S.C. Sections 2401 et seq. or taken any action that can be penalized under Section 999 of the Code.

Section 5.38 Solvency.

(a) Seller (i) has and, after giving effect to the transaction contemplated by this Agreement and the Ancillary Agreements, shall have assets which, fairly valued, exceed its indebtedness, liabilities or obligations, (ii) is not engaged in any business or transaction which, after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements, will leave it with capital or assets which are unreasonably small in relation to the business or transactions engaged in by it, and (iii) does not intend to incur, nor does it believe that it shall incur, debts beyond its ability to repay such debts as they mature.

(b) As of the date of any transfer by Seller or by any Affiliate of Seller of any Assets to the Company, such transferor (i) had assets which, fairly valued, exceeded its indebtedness, liabilities or obligations, (ii) was not engaged in any business or transaction which, left it with capital or assets which were unreasonably small in relation to the business or transactions engaged in by it, and (iii) did not intend to incur, nor did it believe that it would incur, debts beyond its ability to repay such debts as they mature.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller, as of the Execution Date and as of the Closing Date, as follows:

Section 6.1 Corporate Existence and Powers. Buyer is a corporation validly existing and in good standing under the Laws of the State of Virginia. Buyer has all the requisite corporate power and authority to conduct its business as it is now being conducted and to own, lease and operate its assets. Buyer's Corporate Documents are in full force and effect. Buyer is not in violation of its Corporate Documents in any manner that would have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

Section 6.2 Authority. Buyer has all requisite corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to be executed by it in connection with this Agreement and to perform its obligations hereunder and thereunder. Buyer has taken all action necessary to execute and deliver this Agreement and the Ancillary Agreements, as applicable, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Buyer is necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement and the Ancillary Agreements to be executed by Buyer have been duly executed and delivered by Buyer. Assuming the due authorization, execution and delivery by Seller of this Agreement and the Ancillary Agreements, this Agreement and the Ancillary Agreements constitute legally valid and binding obligations of Buyer, enforceable against it in accordance with the respective terms thereof, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by equitable principles.

Section 6.3 No Conflicts. Neither the execution, delivery and performance by Buyer of this Agreement or the Ancillary Documents nor the consummation of the transactions contemplated hereby or thereby or the taking of any action contemplated to be taken by the Buyer under this Agreement and the Ancillary Agreements will result in (a) a violation or breach of or a

conflict with (with our without notice or lapse of time, or both) any material provision of Buyer's Corporate Documents; or (b) a material violation or material breach (with or without notice or lapse of time, or both) by Buyer of any applicable Laws.

Section 6.4 Consents and Approvals. Other than as set out in Schedule 6.4 (such items listed on Schedule 6.4 are referred to herein as the "***Buyer Consents***"), no consent, approval or authorization of, permit from, declaration, filing or registration with, or notice to, any Authority or any other Person, is required to be made or obtained by Buyer in connection with Buyer's execution, delivery, performance and validity of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby, including with regard to the Assets Distribution to Buyer or Merger.

Section 6.5 Legal Proceedings. Other than as described in Schedule 6.5, there are no material Actions pending or, to Buyer's Knowledge, threatened in writing, against or affecting the acquisition of the Purchased Interests by Buyer or the consummation of the transactions contemplated hereby, at law or in equity, or before or by any Authority and, to Buyer's Knowledge, there is no valid basis for any such Action.

Section 6.6 Finders. Buyer has not engaged any broker or finder in connection with this transaction and no Person has any claim against Buyer for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement.

Section 6.7 Sufficient Funds. At Closing, Buyer will have sufficient funds available, or will have sources for sufficient funding capacity, to consummate the transactions contemplated hereby, including to purchase the Purchased Interests and to pay the Purchase Price.

Section 6.8 Compliance With Laws. Buyer has not received any written notification indicating any material violation of, and there is no material violation of, or material non-compliance with, any applicable Law, Order or Permit applicable to the transactions contemplated hereby or that would have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby.

Section 6.9 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Buyer. Neither the signing of this Agreement nor the Closing of the transactions contemplated by this Agreement and the Ancillary Agreements requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction of any reorganization or any bankruptcy Action affecting Buyer.

Section 6.10 Acquisition Intent. Buyer is acquiring the Purchased Interests for its or its Affiliate's own account as an investment without the present intent to sell, transfer or otherwise distribute the same to any other Person in violation of the 1933 Act or any applicable state securities laws. Buyer acknowledges that the Purchased Interests are not registered pursuant to the 1933 Act and that none of the Purchased Interests may be transferred, except pursuant to an effective registration statement under, or an applicable exception from registration under, the 1933 Act. Buyer is an "accredited investor" as defined under Rule 501 promulgated under the 1933 Act. Buyer is able to bear the economic risk of holding the Purchased Interests for an indefinite

period (including total loss of its investment) and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment.

Section 6.11 Independent Investigation. Prior to its execution of this Agreement and the consummation of the transactions hereunder, Buyer has conducted its own independent investigation, evaluation and verification of the Company (including its business, results of operations, prospects and condition (financial or otherwise), the Company Assets, the Purchased Interests, and the Project. In making its decision to execute this Agreement and to acquire the Purchased Interests, Buyer has relied and will rely solely on such independent investigation, evaluation and verification and the terms and conditions of this Agreement, including the representations and warranties set forth in Article V. Buyer acknowledges that none of Seller, the Company or any other Person has made any representation or warranty as to Seller, Company or the Project, except as expressly set forth in Article V.

Section 6.12 Independent Investigation. Prior to its execution of this Agreement and the consummation of the transactions hereunder, Buyer has conducted its own independent investigation, evaluation and verification of the Company (including its business, results of operations, prospects and condition (financial or otherwise), the Company Assets, the Purchased Interests, and the Project. In making its decision to execute this Agreement and to acquire the Purchased Interests, Buyer has relied and will rely solely on such independent investigation, evaluation and verification and the terms and conditions of this Agreement, including the representations and warranties set forth in Article V. Buyer acknowledges that none of Seller, the Company or any other Person has made any representation or warranty as to Seller, Company or the Project, except as expressly set forth in Article V.

ARTICLE VII
BUYER'S CONDITIONS PRECEDENT TO CLOSING

Section 7.1 Buyer's Conditions Precedent to Closing. The obligation of Buyer to consummate the transactions contemplated by this Agreement to occur on the Closing Date shall be subject to fulfillment at or prior to the Closing of each of the following conditions, except to the extent Buyer waives such fulfillment in writing:

(a) Deliveries by Seller at Closing. Upon the terms and subject to the conditions set forth in this Section 7.1, on or before the Closing Date, Seller covenants to deliver, or to cause to be delivered, to Buyer the following:

(i) Assignment of Purchased Interests. An original counterpart of the Membership Interest Assignment in substantially the form of Exhibit Q hereto (the "***Membership Interest Assignment***"), conveying to Buyer all of Seller's right, title and interest in and to the Purchased Interests, executed by Seller.

(ii) Certificates. The following certificates:

(A) A certificate executed by an officer of Seller, certifying as of the Closing Date (I) that the execution, delivery and performance of this Agreement and the Ancillary Agreements to which Seller, Company or any

of Seller's other Affiliates is a party, and the consummation of the transactions contemplated hereby and thereby have been duly authorized, (II) incumbency matters, (III) Seller's and the Company's good standing and (IV) Seller's and the Company's Corporate Documents.

(B) A properly completed and duly executed IRS Form W-9 from Seller (or, if Seller is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of Seller's assets, including the Purchased Interests).

(C) A certificate executed by an authorized representative (at least a vice president or higher) of Seller, certifying as to the matters set forth in Section 7.1(b).

An executed Seller Mechanical Completion PWA Compliance Certificate and any supporting documentation set forth in Section 3.21(c) and Section 3.21(d) in favor of Buyer.

(D) An executed Seller Mechanical Completion Domestic Content Compliance Certificate.

(F) An executed Seller Start of Construction Certificate (Closing Date), with no changes from the form attached hereto as Exhibit I-2, other than those that are not reasonably likely to cause the ITCs with respect to the Project to be materially reduced or otherwise adversely affected determined without regard to any [redacted]

(iii) Resignations. Letters of resignation executed by each of the managers and officers of the Company, if any, effective as of the Closing.

(iv) Release. A mutual release between Seller, Company and Buyer in the form attached hereto as Exhibit R.

(v) Excluded Assets and Excluded Liabilities. The Excluded Assets and Liabilities Assignment Agreement with respect to the Excluded Assets and Excluded Liabilities in accordance with Section 9.9, executed by Seller.

(vi) Ancillary Agreements. Each of the Ancillary Agreements, executed by Seller or an Affiliate if applicable.

(vii) Books and Records. Physical possession of all business records, financial books and records, and other files, books and records owned or controlled by, or otherwise in the possession of, Seller or its Affiliates, to the extent (and only to the extent) such books and records are related to the Company or the Project, and in the case of such books and records that are maintained in electronic format, such books and records shall, to the extent practicable, be delivered in an electronic format reasonably requested by Buyer.

(b) Representations, Warranties and Covenants of Seller. (i) The representations and warranties made by Seller in Article V hereof shall be true and correct in all material respects as of the Closing Date (except, in each case, to the extent that any of such representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided, that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in all respects, and (ii) Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller at or before the Closing Date; [redacted]

(c) Company Permits. Except as set forth on Schedule 5.14(a), Seller shall have, or caused the Company to have, obtained, and Made Available all of the Company Permits set forth in Schedule 5.14(a), and, except as set forth on Schedule 5.14(a), all such Company Permits shall have either been obtained in the name of the Company or validly assigned to the Company in each case in accordance with applicable Laws, and all such Company Permits shall be final, non-appealable and in full force and effect.

(d) Consent. Seller shall have, or caused the Company to have, obtained or delivered, as applicable, all of the Seller Consents, which Seller Consents shall be final, non-appealable and in full force and effect and true and correct copies of which shall have been received by Buyer. The Buyer shall have obtained all of the Buyer Consents, which Buyer Consents shall be final, non-appealable and in full force and effect. All third-party consents, approvals and authorizations required for the consummation of the Assets Distribution to Buyer or Merger shall have been obtained.

(e) Mechanical. The Mechanical Completion Date shall have occurred.

(f) No Electricity Transmission. The Project has not generated and transmitted electricity to transmission grid at any time prior to Closing.

(g) Required Credit Support. The Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall have not occurred and be continuing any Seller Parent Guaranty Default.

(h) Real Property.

(i) Title Policy. Seller shall have (A) caused the Title Company to issue (or be irrevocably committed to issue upon the Closing, as evidenced by a closing instruction letter, in form and substance reasonably satisfactory to Buyer, executed on behalf of Buyer, Seller and the Title Company) to the Company, at Seller's expense, the most recent ALTA form (or its equivalent form in the State or

Commonwealth in which the Real Property is located, as reasonably approved by Buyer) date down endorsement to the NTP Title Policy issued pursuant to the requirements of Section 3.10 (the "***Date Down Endorsement***"), which Date Down Endorsement shall (i) extend the effective date of the NTP Title Policy to the Closing Date and show that since the effective date of such NTP Title Policy there has been no change in the status of the Company's title to the real estate interests with respect to the Site and no new Encumbrances thereon, other than matters on the NTP Title Policy or NTP Survey, or constituting Permitted Encumbrances, or the lien of real property taxes for the then current year, which are not yet due and payable, (ii) include issuance of the standard form ALTA 15 endorsement, which form shall be completed to Buyer's reasonable satisfaction, and (iii) provide coverage for any mechanic's and materialman's liens recorded as of the effective date of such Date Down Endorsement, in form and substance reasonable satisfactory to Buyer.

(ii) Survey. Seller shall have caused the surveyor to deliver to Buyer the As-Built Survey, if available, or the final Preliminary Survey that includes and plots to the extent possible the location of all matters set forth in the NTP Title Policy and NTP Survey, and which final Preliminary Survey shall be certified to the Company, Buyer, and the Title Company and such other Persons as Buyer may direct.

(i) Real Property Interests. On the Closing Date, the Real Property shall comprise all of the real property interests necessary for the development, construction, installation, interconnection, completion, ownership, operations and maintenance of the Project, as applicable.

(j) [Reserved].

(k) [Reserved].

(l) FERC Approvals. (i) No order of FERC shall have been issued and remain in effect, (A) rejecting in whole or in part the self-certification of the Company such that the Company would not be entitled to rely on EWG status (pursuant to Section 366.7 of the regulations of FERC) or (B) making a determination that the Company is not an EWG; (ii) the Required FERC Approvals shall have been obtained and shall be in full force and effect, without any material condition or restriction on Buyer or otherwise affecting the ownership, maintenance or operation of the Project or any of the individual Facilities in any material respect that is unacceptable to Buyer; and (iii) [redacted]

(m) No Violation. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law or Order.

(n) No Proceeding or Litigation. No Action shall have been instituted or threatened that questions or challenges the validity of, or seeks to impair, restrain, prohibit, invalidate or enjoin, the consummation of the transactions contemplated by this Agreement at the Closing.

(o) Major Project Document Estoppels. Seller shall have delivered to Buyer not later than [redacted] the proposed final form of Major Project Document Estoppels, and Seller shall have delivered to Buyer the agreed form of executed Major Project Document Estoppels, which shall be dated as of the Closing Date.

(p) No Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing; [redacted]

(q) [Reserved].

(r) Business Records. Seller shall have Made Available, at least ten (10) days prior to the Closing Date, true, correct and complete copies of (i) all documents, data, and information described on Schedule 3.3(a), (ii) all Company Permits and amendments or modifications thereto, and (iii) all Material Contracts and amendments or modifications thereto.

(s) Phase I. At least sixty (60) days prior to the Closing Date, Seller shall deliver to Buyer one or more Phase I environmental site assessments covering the Property performed by a qualified environmental consultant (as reasonably determined by Seller) within 180 days prior to the Closing Date and in accordance with the standards and practices for "all appropriate inquiries" under 40 CFR § 312, along with a reliance letter in favor of Buyer that is reasonably acceptable to Buyer, and either (1) such assessments shall confirm that no "Recognized Environmental Conditions" (as defined in ASTM E1527-21 section 3.2.73) have been identified to exist that would materially impact performance of Seller's obligations under this Agreement or (2) Seller shall have provided to Buyer a remediation plan for resolution of any such identified Recognized Environmental Conditions, including but not limited to removal or other remediation or control of any environmental contamination identified as part of any Recognized Environmental Condition before the Closing Date, which remediation plan is reasonably acceptable to Buyer; (B) to the extent not included in the Phase I environmental assessment report(s), Seller shall have provided Buyer written proof of the resolution of any "Controlled Recognized Environmental Conditions" and "Historic Recognized Environmental Conditions" (as defined in ASTM E1527-21 sections 3.2.17 and 3.2.39, respectively) identified therein, as reasonably acceptable to Buyer.

(t) MC Punch List. Seller shall have delivered to Buyer, and Buyer shall have approved, the MC Punch List, such approval not to be unreasonably withheld.

ARTICLE VIII
SELLER'S CONDITIONS PRECEDENT TO CLOSING

Section 8.1 Seller's Conditions Precedent to Closing. The obligation of Seller to consummate the transactions contemplated by this Agreement to occur on the Closing Date shall

be subject to fulfillment at or prior to the Closing of each of the following conditions, except to the extent Seller waives such fulfillment in writing:

(a) Deliveries by Buyer at Closing. Upon the terms and subject to the conditions set forth in this Section 8.1, on or before the Closing Date, Buyer shall deliver, or shall cause to be delivered to Seller, the following:

(i) Consideration. The Closing Payment (if it is a positive number) in accordance with Section 2.2(a).

(ii) Certificates.

(A) A certificate from Buyer executed by an officer, certifying as of the Closing Date (I) a true and correct copy of the resolutions of Buyer authorizing the execution, delivery and performance of this Agreement and the other Ancillary Agreements to be executed by it, and the consummation of the transactions contemplated hereby and thereby, (II) incumbency matters, (III) Buyer's good standing and (IV) Buyer's Corporate Documents; and

(B) A certificate from Buyer executed by an officer, certifying as to the matters set forth in Section 8.1(b)(i).

(iii) Ancillary Agreements. Each of the Ancillary Agreements to which Buyer or the Company is a party shall be executed by Buyer or the Company and delivered to Seller.

(iv) Assignment Agreement. The Excluded Assets and Liabilities Assignment Agreement executed by Buyer and the Company.

(b) Representations, Warranties and Covenants of Buyer. (i) The representations and warranties made by Buyer in Article VI hereof shall be true and correct in all material respects as of the Closing Date (except, in each case, to the extent that any of such representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or material adverse effect shall be true and correct in all respects, and (ii) Buyer shall have performed in all material respects all covenants required by this Agreement to be performed by Buyer at or before the Closing Date.

(c) FERC Approvals. The Required FERC Approvals shall have been obtained and shall be in full force and effect, without any material condition or restriction on Seller or otherwise affecting the ownership, maintenance or operation of the Project or any of the individual Facilities in any material respect that is unacceptable to Seller.

(d) No Violation. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law or Order that would have a material adverse effect on Seller's ability to consummate the transaction contemplated hereby.

(e) No Proceeding or Litigation. No Action shall have been instituted or threatened that questions or challenges the validity of, or seeks to impair, restrain, prohibit, invalidate or enjoin, the consummation of the transactions contemplated by this Agreement at the Closing that would have a material adverse effect on Seller's ability to consummate the transaction contemplated hereby.

ARTICLE IX
ADDITIONAL COVENANTS

Section 9.1 Records. Seller and Buyer agree that each will cooperate with and make available to the other Party, during normal business hours after reasonable advance notice, Corporate Records relating to the Project, the Company or the Seller that are necessary in connection with any Tax inquiry, audit, investigation or dispute, any Action or any other matter requiring any such books and records. The Party requesting any such books and records shall bear all of the out-of-pocket costs and expenses (including attorneys' fees) reasonably incurred in connection with providing such books and records. Notwithstanding anything to the contrary contained in this Section 9.1, if the Parties are in an adversarial relationship in litigation or arbitration, the furnishing of any documents or information in accordance with this Section 9.1 shall be solely subject to applicable rules relating to discovery. The covenants contained in this Section 9.1 shall survive until the PWA Outside Date.

Section 9.2 Buyer Confidential Information. Subject to the conditions and limitations acknowledged in Section 3.7 and Section 3.8:

(a) Buyer Confidential Information. Seller acknowledges that Buyer Confidential Information is valuable and proprietary to the Project and Seller agrees not to, directly or indirectly, publish, disseminate, describe or otherwise disclose any Buyer Confidential Information in respect of the Project without the prior written consent of Buyer. For purposes of this Agreement, "***Buyer Confidential Information***" shall mean (a) any and all information provided by Buyer to Seller in writing and identified by Buyer as confidential and (b) any and all information with respect to the Project or the transactions contemplated hereby. Information shall not be deemed to be Buyer Confidential Information if (i) it has become generally known or available within the industry or the public through no act or omission of Seller; (ii) Seller can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Seller; (iii) it was rightfully received by Seller from a third party who became aware of it through no act or omission of Seller and who is not under an obligation of confidentiality to Buyer; or (iv) Seller can demonstrate it was independently developed by employees or consultants of Seller.

(b) Duty to Maintain Confidentiality. Seller shall, and shall cause its Affiliates to, maintain any Buyer Confidential Information in confidence and shall not disclose it or cause it to be disclosed by them or any third party without Buyer's prior written consent; provided, however, that Seller may disclose Buyer Confidential Information to Persons who provide financial analysis, banking, legal, accounting, or other services to Seller or its Affiliates in connection with Seller's evaluation or implementation of the transactions contemplated by this Agreement (including the Financing), so long as such Persons have first been provided with a copy of Section 9.2 of this Agreement and have been informed of the duties required hereby.

(c) Permitted Disclosure. Notwithstanding Section 9.2(b), Buyer Confidential Information may be disclosed (i) if required by any Authority or by applicable Law (including FERC and Commission filings or obtaining any Company Permits) or stock exchange rule, and (ii) in connection with seeking the Commission Approvals and the Required FERC Approvals; provided, however, that in each case under (i) and (ii) above, such Buyer Confidential Information is submitted under any and all applicable provisions for confidential treatment and in each case under (i) above (other than with respect to FERC and Commission filings and disclosures made in connection with seeking the Required FERC Approvals or the Commission Approvals), Seller exercises commercially reasonable efforts to notify Buyer of such disclosure.

(d) Limited Use. Seller agrees that it will not make any use of any Buyer Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement, unless specifically authorized to do so in writing, and this Agreement shall not be construed as a license or authorization to Seller to utilize Buyer Confidential Information except for such purpose.

(e) Return or Destruction. Upon Buyer's request, Seller shall return to Buyer or destroy as promptly as practicable, but in a period not to exceed [redacted] (a) all Buyer Confidential Information provided to Seller, including all copies of such Buyer Confidential Information, and (b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Buyer Confidential Information was properly provided by Seller. Non-destruction of electronic copies of materials or summaries containing or reflecting Buyer Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as Buyer Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

(f) Specific Performance. Seller acknowledges that a breach of the covenants contained in this Section 9.2 will cause irreparable damage to Buyer, the exact amount of which will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Seller agrees that if Seller breaches any of the covenants contained in this Section 9.2, in addition to any other remedy that may be available at law or in equity, Buyer shall be entitled to specific performance and injunctive relief, without posting bond or other security.

Section 9.3 Seller Confidential Information. Subject to the conditions and limitations acknowledged in Section 3.7 and Section 3.8:

(a) Seller's Confidential Information. Buyer acknowledges that Seller Confidential Information is valuable and proprietary to Seller and Buyer agrees not to, directly or indirectly, use, publish, disseminate, describe or otherwise disclose any Seller Confidential Information in respect of the Project without the prior written consent of Seller. For purposes of this Agreement, "***Seller Confidential Information***" shall mean (a) any and all information provided by Seller to Buyer in writing and identified by Seller as confidential and (b) any and all information with respect to the Project or the transactions contemplated hereby. Information shall not be deemed to be Seller Confidential Information if (i) the Closing has occurred and such information is also a Company Asset under this Agreement (which information shall include the

Company's books and records); (ii) it has become generally known or available within the industry or the public through no act or omission of Buyer; (iii) Buyer can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Buyer; (iv) it was rightfully received by Buyer from a third party who became aware of it through no act or omission of Buyer and who is not under an obligation of confidentiality to Seller; or (v) Buyer can demonstrate it was independently developed by employees or consultants of Buyer.

(b) Duty to Maintain Confidentiality. Buyer shall, and shall cause its Affiliates to, maintain any Seller Confidential Information in confidence and shall not disclose it or cause it to be disclosed by Buyer or any third party without Seller's prior express written consent; provided, however, that Buyer may disclose Seller Confidential Information to Persons who provide financial analysis, banking, legal, accounting, or other services to Buyer or any potential lenders to Buyer in connection with Buyer's evaluation or implementation of the transactions contemplated by this Agreement, so long as such Persons have first been provided with a copy of Section 9.3 of this Agreement and have been informed of the duties required hereby.

(c) Permitted Disclosure. Notwithstanding Section 9.3(b), Seller Confidential Information may be disclosed if required by any Authority or by applicable Law (including FERC and Commission filings) or stock exchange rule, and (ii) in connection with seeking the Commission Approvals and the Required FERC Approvals; provided, however, that in each case under (i) and (ii) above such Seller Confidential Information is submitted under any and all applicable provisions for confidential treatment and in each case under (i) above (other than with respect to FERC and Commission filings and disclosures made in connection with seeking the Required FERC Approvals or the Commission Approvals), Buyer exercises commercially reasonable efforts to notify Seller of such disclosure.

(d) Limited Use. Buyer agrees that it will not make any use of any Seller Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement, unless specifically authorized to do so in writing, and this Agreement shall not be construed as a license or authorization to Buyer to utilize Seller Confidential Information except for such purpose.

(e) Return or Destruction. Upon Seller's request, Buyer shall return or destroy as promptly as practicable, but in a period not to exceed [redacted] (a) all Seller Confidential Information provided to Buyer, including all copies of such Seller Confidential Information, and (b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Seller Confidential Information was properly provided by Buyer. Non-destruction of electronic copies of materials or summaries containing or reflecting Seller Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as the Seller Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

(f) Specific Performance. Buyer acknowledges that a breach of the covenants contained in this Section 9.3 will cause irreparable damage to Seller, the exact amount of which

will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Buyer agrees that if Buyer breaches any of the covenants contained in this Section 9.3, in addition to any other remedy that may be available at law or in equity, Seller shall be entitled to specific performance and injunctive relief, without posting bond or other security.

Section 9.4 Tax Matters.

(a) Buyer shall inform Seller of the commencement of any audit, examination or proceeding relating in whole or in part to Taxes for which Seller is responsible to indemnify any Buyer Indemnified Party pursuant to this Agreement, including any PWA Cure Liability (a "***Tax Contest***"); provided, however, that the rights of any Buyer Indemnified Party hereunder shall not be adversely affected by a failure or delay to give such notice unless, and only to the extent that, the Seller is actually impeded from making timely corrective actions with respect to such Tax Contest. In the event that Buyer settles or compromises any Tax Contest with respect to any Taxes described in clause (k), (l) or (m) in the definition of "Excluded Liabilities" without Seller's written consent (which such consent shall not be unreasonably withheld, conditioned or delayed), Seller shall only be required to indemnify Buyer Indemnified Parties under Section 10.2(a)(iv) for 50% of the amount of such Taxes; provided, for clarity, if Buyer Indemnified Parties make a claim for such Taxes under Section 10.2(a)(ii) or Section 10.2(a)(v), this sentence shall not apply. Buyer shall keep Seller reasonably informed of the developments and status of any Tax Contest, shall permit Seller to reasonably participate (at its own expense) in any Tax Contest and shall consider in good faith any reasonable comments to any proposed settlement or compromise timely provided by Seller to Buyer prior settling or compromising any Tax Contest Notwithstanding anything in this Agreement to the contrary, Seller shall have no rights under this Agreement to control or participate in (i) any Tax Contest of Buyer or its Affiliates (other than the Company) or (ii) any Tax Contest of the Company with respect to any Tax period that begins on or after the Closing Date. To the extent that there is an inconsistency between Sections 10.2(c) or 10.2(d) and this Section 9.4 as it relates to a Tax Contest, the provisions of this Section 9.4 shall govern.

(b) In the case of any Straddle Period, the amount of any Taxes based on or measured by income, receipts, or payroll of the Company for the pre-Closing portion of such Tax period shall be determined based on an interim closing of the books as of the close of business on the Closing Date. All real property Taxes, personal property Taxes and other Taxes and similar obligations of the Company that are due or become due for Straddle Periods shall be apportioned to Seller for the pre-Closing portion of such Tax period, and the amount of such Taxes and obligations of the Company that relate to the pre-Closing portion of such Tax period shall be deemed to be the amount of such Taxes and obligations for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date, and the denominator of which is the number of days in such Straddle Period.

(c) Buyer and Seller shall provide each other with such assistance as may reasonably be requested by the other in connection with the preparation of any Tax Return, any audit or other examination by any Tax Authority, or any judicial or administrative proceedings relating to liabilities for Taxes relating to the Company or the Project (including, for the avoidance of doubt, relating to any ITCs or other Tax benefits claimed or to be claimed by Buyer). Such assistance shall include making employees available on a mutually convenient basis to provide additional information or explanation of material provided hereunder and shall include providing

copies of relevant Tax Returns, taxpayer identification numbers, and supporting material. The Party requesting assistance hereunder shall reimburse the assisting Party for reasonable out-of-pocket expenses incurred in providing assistance. Buyer and Seller will retain until the PWA Outside Date and provide the other party with any records or information which may be relevant to such preparation, audit, examination, proceeding or determination.

(d) Seller (or Seller's regarded parent for federal income Tax purposes) shall report any gain recognized on the sale of the Purchased Interests as gain from the sale of property described in Section 1221(a)(1) of the Code for all federal, state and local income tax purposes.

(e) The covenants contained in this Section 9.4 shall survive until the PWA Outside Date.

Section 9.5 Non-Interference.



(b) The covenants, restrictions, consents and agreements contained in this Section 9.5 shall: (i) touch and concern and shall apply to and be binding upon the Project, including all of the lands, leaseholds, chattel reals and real property interests included therein; (ii) be covenants running with and a burden upon the lands of the Project, including upon the respective owners thereof and their respective successors and assigns; (iii) inure to the benefit of the Project, including the owners thereof and their respective successors and assigns; and (iv) to the extent any of the provisions of this Agreement are not enforceable as covenants running with the land, they shall be enforceable as equitable servitudes. At Closing, Seller and the Company shall execute and deliver a memorandum in recordable form setting forth: (I) the covenants, restrictions, consents and agreements contained in this Section 9.5; (II) descriptions of the lands, leaseholds, chattel reals and real property interests of the Project; and (III) descriptions of the lands within two miles of the project that are subject to this Section 9.5.

Section 9.6 Confidentiality Regarding This Agreement. Subject to the conditions and limitations acknowledged in Section 3.7 and Section 3.8: (i) the Parties each acknowledge and agree that the terms of this Agreement shall be considered Seller Confidential Information and Buyer Confidential Information, and (ii) neither Buyer nor Seller shall issue any public announcement, press release or other statement with respect to this Agreement or the transactions contemplated hereby that identifies the other Party, without the prior consent of the other Party (which consent shall not be unreasonably withheld), unless required by applicable Law or stock exchange rule (including in connection with obtaining the necessary approvals of this Agreement and the transactions contemplated hereby from any Authority); provided, however, that both Buyer and Seller shall have the right without obtaining such consent to include public information concerning the Project in such Party's marketing materials following the initial public announcement by the other Party. In the event a Party breaches this Section 9.6, in addition to and

not in lieu of any legal or equitable remedies that may otherwise be available, the non-breaching Party may, in its sole discretion, issue public announcements that the non- breaching Party shall deem to be appropriate in its sole discretion to supplement, correct or amplify the announcement or statement made by the breaching Party.

Section 9.7 Further Assurances. Following Closing, each of the Parties shall use commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement, including the delivery of such certificates, documents and instruments that either Party reasonably requests for the purpose of (i) evidencing the accuracy of representations and warranties, (ii) evidencing the performance and compliance by the other Party with the agreements contained in this Agreement, (iii) evidencing the satisfaction of any condition referred to in ARTICLE VII or Section 8.1, or (iv) otherwise facilitating the consummation of the transactions contemplated by this Agreement. Without limiting the foregoing, Seller shall provide Buyer and Company, and any third party operator of all or any portion of the Facilities, with such assistance as Buyer may from time to time reasonably request for purposes of ensuring that Buyer, its Affiliates, or such third party operator(s), will be able to operate and maintain the Facilities in accordance with Prudent Industry Practices and the Site Operating Plan following the Closing Date.

Section 9.8 Transfer Taxes. All Transfer Taxes, if any, arising out of or in connection with the transactions effected pursuant to this Agreement, arising due to the transfer of the Purchased Interests at Closing or the Assets Distribution to Buyer or Merger shall be borne equally by Buyer and Seller. Tax Returns that must be filed in connection with such Transfer Taxes shall be prepared and filed by the Party primarily or customarily responsible under applicable local Law for filing such Tax Returns, and such party will use commercially reasonable efforts to provide such Tax Returns to the other Party at least [redacted] Buyer and Seller shall cooperate to identify, calculate, report and shall provide and make available to the other information reasonably requested regarding the calculation of Transfer Taxes due and each Party shall execute and file any documentation required to be filed by it with respect to such Transfer Taxes. [redacted]

Section 9.9 Removal of Excluded Assets. On or before the Closing Date or, if only identified following the Closing Date then [redacted] Seller shall at its sole cost and expense, disconnect and remove from the Site all Excluded Assets (other than such assets that are also part of the Shared Facilities) and restore the real property on which such Excluded Assets were located in accordance with the requirements of the Land Contracts that apply in the case of termination of such Land Contract. Seller shall, and Buyer shall cause the Company to, execute and deliver the Excluded Assets and Liabilities Assignment Agreement with respect to such Excluded Assets. Such removal shall be undertaken in such manner as to avoid any damage to the Company Assets and any disruption of the business operations of the Company after the Closing Date. The cost of any damage to the Company Assets resulting from such removal shall be promptly paid by Seller upon receipt of an invoice for same (together with a reasonably detailed accounting therefor) from Buyer. Should Seller fail to remove the Excluded Assets as required by this Section 9.9, Buyer shall have the right, but not the obligation, (a) to remove the Excluded Assets at Seller's sole cost and expense; (b) to store the Excluded Assets and to charge Seller all reasonable and documented out-of-pocket storage costs associated therewith;

(c) if not removed by, or the storage costs assumed by, Seller [redacted] or the date on which Buyer provides notice of the Excluded Assets identified post-Closing, as applicable, to treat the Excluded Assets as unclaimed and to proceed to dispose of the same under the Laws governing unclaimed property; or (d) to exercise any other right or remedy conferred by this Agreement or otherwise available at law or in equity other than termination of this Agreement. Seller shall promptly reimburse Buyer for all reasonable and documented costs and expenses incurred by Buyer in connection with the actions in the immediately preceding sentence.

Section 9.10 Seller's Post-Closing Covenants. Seller shall, as promptly as is reasonably practicable, diligently and in good faith assist Buyer in matters in which Seller was involved prior to the Closing as developer of the Project, and to coordinate and cooperate with Buyer in providing such information and supplying such assistance as may be reasonably requested by Buyer in connection with:

(a) any interfaces with Authorities, landowners, and the Interconnection Agreement counterparty with respect to matters related to completion of the unfinished portion of the Project;

(b) causing the Project to achieve Substantial Completion and Final Completion; and

(c) perform any remediation plan identified as part of Section 7.1(s) and not otherwise completed prior to Closing (if any), in a manner that does not materially interfering with the ownership, use or operation of the Project.

Section 9.11 Insurance. Seller shall maintain or cause to be maintained in full force and effect insurance coverage for the Company satisfying the minimum requirements specified in Schedule 3.14 until the Closing and after the Closing with respect to the Builder's All Risk insurance policy and any tail coverage provided under such policies. From and after the Closing, Buyer shall be solely responsible for providing insurance for the Company and the Company Assets for any insurable events occurring after the Closing; *provided that*, Seller shall remain responsible for the cost of maintaining the Builder's All Risk insurance policy through the Final Completion Date. If any insurable claim arises prior to the Closing Date under any liability insurance policy for the Company, Seller shall ensure that the Company and Buyer can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies, and Seller will pay over to Buyer any proceeds of any insurance recovery under any such policy by Seller. If any casualty loss occurs prior to the Closing which is insured under any property or casualty insurance policy for the Company, then Seller shall ensure that the Company and Buyer can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies, and Seller will pay over to Buyer any such proceeds of any insurance recovery under any such policy by Seller, other than any such proceeds that have been or will be applied to repair or replace the property subject to such claim.

(a) Commencing with the Closing Date and continuing through the Final Completion Date, Seller shall maintain in full force and effect the Required Insurance Policies as provided in Schedule 3.14; provided, however, that Seller shall maintain in full force and effect

commercial general liability coverage for products and completed operations as set forth on Schedule 3.14 for a period of [redacted] Seller shall have the option of procuring insurance required under this Agreement directly, or indirectly through one or more of its Contractors.

(b) From and after the Closing Date, Buyer shall have the right to submit to Seller any claims (together with a reasonable description thereof and back-up therefor) for any documented, out-of-pocket Losses or Liabilities of the Company that are covered by the Required Insurance Policies arising out of insured incidents to the extent occurring from the date coverage thereunder first commenced until the Final Completion Date. With respect to any such claim, Seller shall submit such claim and use its commercially reasonable efforts to administer such claims on behalf of the Company, as applicable, and to seek reasonable recovery under the applicable insurance provisions of such insurance policies covering a Loss of the Company, as applicable, to the same extent as it would if such Loss were a Loss of Seller and to the extent that the terms and conditions of any such policies so allow (it being understood that (i) Seller shall have the right to administer and control such claims and (ii) such claims shall be subject to any and all applicable deductibles, retentions, self-insurance provisions or any payment or reimbursement obligations in respect thereof, and the exhaustion of existing aggregate limits), and Seller shall pay to Buyer the amount of such recovery within a reasonable time after receipt thereof not to exceed [redacted] net of any out-of-pocket costs and expenses incurred by Seller to obtain such recovery (including the reasonable fees, disbursements and expenses of legal counsel).

(c) With respect to any claims that may be brought after the Closing with respect to occurrences prior to Final Completion (i) Seller shall ensure that the Company, Buyer, its Affiliates and Representatives, will be endorsed to Seller's policies as additional insureds on Seller's general liability, auto liability, pollution liability and umbrella liability policies, and (ii) such policies shall provide that Seller waives, and causes its insurers to waive, subrogation rights against Buyer and its Affiliates and Representatives with respect to general liability, auto liability, umbrella liability, workers compensation and employer's liability policies.

(d) Losses recovered by the Company pursuant to Section 9.11(a) shall be subject to the provisions of Section 10.2(g).

Section 9.12 Post-Closing Completion of the Project.

(a) From time to time following the Closing Date until the Final Completion Date, Buyer shall reasonably cooperate with Seller to enable Seller to complete construction of the Project in accordance with this Agreement and the schedule and deadlines set forth herein, including affording Seller and the EPC Contractor access to the Project and cooperating with Seller to assert the rights of the Company under the Material Contracts; provided, that Buyer shall not have any obligation to take any action that might have an Adverse Effect.

[redacted]



(d) Following the Assets Distribution to Buyer or Merger, the provisions of this Section 9.12 shall apply, mutatis mutandis, to Seller (or its Affiliate) acting as Buyer's limited agent for the same purposes and with the same scope as described above.

Section 9.13 PWA Requirements.

(a) Subsequent to Closing and until the PWA Outside Date, Seller shall, and shall cause each PWA Subcontractor to, continue to comply with the obligations set forth in Section 3.21. Buyer shall reasonably cooperate with Seller with regard to Seller's obligations pursuant to Section 3.21 and this Section 9.13.

(b) In the event Seller has a PWA Cure Liability obligation (with respect to an indemnification obligation pursuant to Section 10.2(a)(v) or pursuant to Section 9.13(c)) with respect to noncompliance with the PWA Requirements, Seller shall be responsible for satisfying the cure provisions contained in the PWA Guidance and Code Sections 48(a)(10)(B) and 48(a)(11) or 48E(d)(3) and 48E(d)(4)), as applicable, including promptly (i) identifying any affected Laborers and making or causing to be made any PWA Cure Liability payments required to be made to such Laborers, and (ii) paying to Buyer any amounts described in Code Sections 48(a)(10)(B) and 48(a)(11) or 48E(d)(3) and 48E(d)(4), as applicable, for Buyer to pay to the IRS or any other applicable Authority.

(c) In the event that Buyer has determined that Seller has an obligation with respect to a PWA Cure Liability as a result of any failure of Seller or a PWA Subcontractor to

comply with any PWA Requirements, Buyer shall notify Seller of such determination and Seller shall comply with the procedures set forth in Section 9.13(b) to resolve such PWA Cure Liability (as reasonably satisfactory to Buyer). In the event Seller disagrees with Buyer's determination within [redacted] of the date of delivery of Buyer's notification, Seller may object in writing to such determination, stating in reasonable detail its objections and providing its good faith basis to establish that no failure to comply with any PWA Requirements occurred and the Parties will attempt to resolve the dispute by negotiation in good faith. If the Parties are unable to resolve the dispute within [redacted] of the date of delivery of Seller's objection in writing, then either Party may refer the dispute to the Independent Accountant, and the Independent Accountant will settle the dispute as soon as practicable consistent with the Independent Accountant procedures set forth in Section 2.4(c) and Section 2.5(c) (other than the last sentence in Section 2.5(c)).

(d) Notwithstanding anything in Section 9.13(c) to the contrary, Seller shall, and shall require each PWA Subcontractor to, make any PWA Cure Liability payments to any Laborer, without any objection rights as described in Section 9.13(c), to the extent Buyer agrees to provide the amount of such payment to the Employer of such Laborer. For the avoidance of doubt, to the extent a Tax Authority determines, proposes to determine, or otherwise asserts that a PWA Cure Liability exists with respect to the Project, the procedures set forth in Section 9.13(b) shall apply to such PWA Cure Liability, and in no event shall such PWA Cure Liability be submitted to the Independent Accountant pursuant to Section 9.13(c).

(e) Notwithstanding anything in this Agreement to the contrary, Seller shall bear the costs of fulfilling its obligations under this Section 9.13. Seller's obligations under this Section 9.13, and its obligations to ensure the PWA Subcontractors' compliance with the obligations under this Section 9.13, shall survive until the PWA Outside Date.

Section 9.14 Credit Support. At Closing, Buyer shall replace any credit support (in the form of a letter of credit, guaranty, cash or otherwise) provided by or on behalf of Seller or the Company under any Permits or the Interconnection Agreement. [redacted]

Section 9.15 Post-Closing Delivery of As-Built Survey and Issuance of Title Policy.

(a) Notwithstanding Sections 7.1(h)(i)-(ii), Seller and Buyer hereby acknowledge the As-Built Survey may not be available prior to the Closing Date, and, while the Date Down Endorsement will be effective as of the Closing Date, the Date Down Endorsement will not be finalized and issued until after receipt of the As-Built Survey. For clarity, the cost of the Title Policy shall be paid by Seller; provided, that Buyer and Seller shall each pay one-half of the cost of the premium for: (i) the date down endorsement to the Title Policy to be provided at, or pursuant to Section 9.15(b) below, after Closing; and (ii) any non-imputation endorsement.

(b) Seller will cause the As-Built Survey to be delivered not more than ninety (90) days after the Closing Date. Buyer shall, within [redacted] notify Seller in writing of any As-Built Defects as to which Buyer objects, which shall be limited to matters that that are an As-Built Survey Encumbrance ("***Buyer's As-***

Built Survey Objection Notice"). Any As-Built Defect disclosed in the As-Built Survey and not so specifically objected to by Buyer shall be deemed to be a Permitted Encumbrance. Seller shall use commercially reasonable efforts to cause all As-Built Defects objected to by Buyer to be cured or satisfied (as applicable) [redacted] *provided, however, Buyer acknowledges that, to the extent reasonably acceptable to Buyer, any* As-Built Defect objected to by Buyer shall not constitute a Permitted Encumbrance if the Title Company agrees to insure over such As-Built Defect in the Date Down Endorsement. Seller shall use commercially reasonable efforts to cause the Title Company to reflect the As-Built Survey in the Title Policy pursuant to the Date Down Endorsement [redacted] Seller will pay all costs incurred in connection with obtaining the As-Built Survey (which shall be certified to the Company, Buyer, the Title Company and such other Persons as Buyer may direct) and the Title Policy and to cure or satisfy the As-Built Defects. Seller will coordinate its curative efforts with Buyer and furnish Buyer with a weekly summary of its curative activities. Buyer's approval, not to be unreasonably withheld, conditioned or denied, will be required for Seller to enter into any agreement relating to curing As-Built Defects that will bind or burden the Company or Buyer.

(c) If the Letter of Credit required under Section 3.6(e) is drawn on by Buyer to satisfy claims made for As-Built Retained Liabilities, Seller shall, [redacted] after such draw, take all actions necessary to cause the remaining amount available to be drawn under such Letter of Credit to equal the amount available immediately prior to such draw.

ARTICLE X
INDEMNIFICATION

Section 10.1 Survival.

(a) Fundamental Representations. No claim under Section 10.2(a)(i) or Section 10.2(b)(i) may be made by the applicable Party unless such claim is delivered to the other Party [redacted] and potential claims relating thereto, constituting a breach of a Seller's Fundamental Representation or a Buyer's Fundamental Representation.

(b) Other Representations and Warranties. No claim under Section 10.2(a)(ii) or Section 10.2(b)(ii) may be made by either Party unless such claim is delivered to the other Party prior to the date falling [redacted]

(c) Covenants. All covenants and agreements of the Parties contained in this Agreement shall survive in accordance with their respective terms or until such covenant or agreement has been performed.

(d) IRA Requirements. Seller's obligations pursuant to Sections 3.21 (PWA Requirements), 3.22 (Domestic Content Requirements) and Section 9.13 (PWA Cure Liability) shall survive until [redacted]

Section 10.2 Indemnifications.

(a) By Seller. From and after Closing, or as provided in Section 10.3, Seller ("***Seller Indemnifying Party***") shall indemnify, defend, save and hold harmless, Buyer, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the "***Buyer Indemnified Parties***") from and against any and all Losses (whether or not arising out of third-party claims) incurred in connection with or arising out of or resulting from (i) any breach of any of Seller's Fundamental Representations, (ii) any breach of any of Seller's representation or warranties under Article V other than Seller's Fundamental Representations, (iii) any breach of Seller's covenants or agreements set forth in this Agreement, (iv) any failure by Seller to pay, perform or discharge any Excluded Liability as and when due, or (v) without duplication, with respect to any breach of Seller's representations in Section 5.20 (Tax Matters), or any breach of Seller's obligations under Section 3.21 (PWA Requirements), Section 3.22 (Domestic Content Requirements), Section 9.4 (Tax Matters), or Section 9.13 (PWA Requirements), including any PWA Cure Liability. Notwithstanding anything to the contrary contained in this Agreement, [redacted] indemnification shall be brought against Seller pursuant to Section 10.2(a)(ii) until the aggregate amount of Losses for such breaches in the aggregate for which Seller would be liable pursuant to [redacted]

(b) By Buyer. From and after Closing, subject to Section 10.3, Buyer ("***Buyer Indemnifying Party***") shall indemnify, defend, save and hold harmless, Seller, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the "***Seller***

Indemnified Parties") from and against any and all Losses (whether or not arising out of third-party claims) incurred in connection with or arising out of or resulting from (i) any breach of any of Buyer's Fundamental Representations, (ii) any breach of any of Buyer's representations or warranties under Article VI other than Buyer's Fundamental Representations, (iii) any breach of Buyer's covenants or agreements set forth in this Agreement, or (iv) any failure of Buyer to pay, discharge or perform any Liabilities (other than Excluded Liabilities) of the Company to the extent relating to the period from and after the Closing Date as and when due, except to the extent they are subject to Seller's obligations under Section 10.2(a). Notwithstanding anything to the contrary contained in this Agreement, [redacted] no claim for indemnification shall be brought against Buyer pursuant to Section 10.2(b)(ii) or until the aggregate amount of Losses for such breaches in the aggregate for which Buyer would be liable pursuant to Section 10.2(b)(ii) [redacted] is exceeded, indemnification may be sought for the full amount of such Losses, inclusive of amounts less than the Threshold Amount; provided, however, that Buyer's liability shall be limited as set forth in Section 10.3.

(c) Procedure for Indemnification of Third-Party Claims.

(i) Whenever any claim by a third party shall arise for indemnification under this Article X, the Indemnified Party shall promptly notify the Indemnifying Party of the claim and, when known, the facts constituting the basis for such claim and, if known, the notice shall specify the amount or an estimate of the amount of the liability arising therefrom. The Indemnified Party shall provide to the Indemnifying Party copies of all material notices and documents (including court papers) received or transmitted by the Indemnified Party relating to such claim. The failure or delay of the Indemnified Party to deliver prompt written notice of a claim shall not affect the indemnity obligations of the Indemnifying Party hereunder, except to the extent the Indemnifying Party was actually disadvantaged by such failure or delay in delivery of notice of such claim.

(ii) Settlement of Losses. If the Indemnified Party has assumed the defense of any claim by a third party which may give rise to indemnity hereunder pursuant to Section 10.2(d), the Indemnified Party shall not settle, consent to the entry of a judgment of or compromise such claim without the prior written consent (which consent shall not be unreasonably withheld or delayed) of the Indemnifying Party.

(d) Rights of Indemnifying Party in the Defense of Third-Party Claims.

(i) Right to Assume the Defense. In connection with any claim by a third party which may give rise to indemnity hereunder, the Indemnifying Party shall have [redacted] after the date the Indemnifying Party is notified of such claim by the Indemnified Party to assume the defense of any such claim, which defense shall be prosecuted by the Indemnifying Party to a final conclusion or settlement in accordance with the terms hereof; provided, however, that the Indemnifying Party shall not have the right to assume the defense of any claim

unless the Indemnifying Party acknowledges to the Indemnified Party in writing the obligation of the Indemnifying Party to indemnify the Indemnified Party with respect to all elements of such claim.

(ii) Procedure. If the Indemnifying Party assumes the defense of any such claim, the Indemnifying Party shall (i) select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claim and (ii) take all steps necessary in the defense or settlement thereof, at its sole cost and expense. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such claim, with its own counsel and at its sole cost and expense; provided, that, if the claim includes allegations for which the Indemnifying Party both would and would not be obligated to indemnify the Indemnified Party, the Indemnifying Party and the Indemnified Party shall in that case jointly assume the defense thereof. The Indemnified Party and the Indemnifying Party shall fully cooperate with each other and their respective counsel in the defense or settlement of such claim. The Party in charge of the defense shall keep the other Party appraised at all times as to the status of the defense or any settlement negotiations with respect thereto.

(iii) Settlement of Losses. The Indemnifying Party shall not consent to a settlement of or the entry of any judgment arising from, any such claim or legal proceeding, without the prior written consent of the Indemnified Party; provided, that no consent shall be required if (i) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (ii) the Indemnified Party will have no liability with respect to any compromise or settlement of such claims or Action.

(iv) Decline to Assume the Defense. The Indemnified Party may defend against any such claim, at the sole cost and expense of the Indemnifying Party, in such manner as it may deem reasonably appropriate, including settling such claim in accordance with the terms hereof if (i) the Indemnifying Party does not assume the defense of any such claim resulting therefrom [redacted] after the date the Indemnifying Party is notified of such claim by the Indemnified Party or (ii) the Indemnified Party reasonably concludes that the Indemnifying Party is (A) not diligently defending the Indemnified Party, (B) not contesting such claim in good faith through appropriate proceedings or (C) has not taken such action (including the posting of a bond, deposit or other security) as may be necessary to prevent any action to foreclose an Encumbrance against or attachment of any asset or property of the Indemnified Party for payment of such claim.

(e) Direct Claims. In the event that any Indemnified Party has a claim against any Indemnifying Party which may give rise to indemnity hereunder that does not involve a claim brought by a third party, the Indemnified Party shall promptly notify the Indemnifying Party of the claim and the facts constituting the basis for such claim and, if known, the amount or an estimate of the amount of the liability arising therefrom. If the Indemnifying Party does not notify the Indemnified Party [redacted] from receipt of such claim notice that the Indemnifying Party disputes such claim, the amount of such claim shall be conclusively deemed a liability of the

Indemnifying Party hereunder; however if the Indemnifying Party does notify the Indemnified Party that it disputes such claim [redacted] the Parties shall attempt to agree upon the rights of the respective Parties with respect to such claim. If the Parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by both Parties. If such Parties shall not agree, the Indemnified Party shall be entitled to take any action in law or in equity as such Indemnified Party shall deem necessary to enforce the provisions of this Article X against the Indemnifying Party.

(f) Exclusive Remedy. Notwithstanding anything in this Agreement to the contrary (other than as set forth in Section 11.2(b)) and subject to the following sentence, the indemnification obligations of the Parties contained in this Section 10.2 (and subject to the limitations set forth in Section 10.3) shall be the sole and exclusive remedy of the Parties hereto, their Affiliates, successors and assigns with respect to any and all claims for Losses sustained or incurred arising out of or relating to any breach of any representation or warranty in Article V or Article VI, or any covenant or agreement contained in this Agreement, including any claims with respect to environmental, health and safety matters; and each Party hereby expressly waives and disclaims, and agrees that it shall not assert, any right, remedy (including the remedy of rescission) or claim in respect of any such breach or Losses based on any cause or form of action whatsoever, *except as and to the extent permitted in this* Section 10.2; provided, however, *that (i) the Parties* may seek to enforce the provisions of this Agreement by injunction, specific performance or other equitable relief, (ii) either Party may seek any and all judicial relief with respect to any default by the other Party of any of its obligations to pay any amounts due and owing to such Party under this Agreement, (iii) such limitation shall not affect the remedies available to the parties to the Ancillary Agreements, which remedies shall be governed by the terms of the Ancillary Agreements, and (iv) this provision shall not limit any available remedy of the Party seeking indemnification for any Losses resulting from, or related to, the intentional breach, willful misconduct, or fraud of the other Party. Nothing in this Section 10.2(f) is intended to constitute a waiver or limitation of any rights that any Party (or their respective Affiliates) may have to assert claims against third parties.

[redacted]

[redacted]

(h) Tax Treatment. Any indemnity payment made pursuant to this Agreement will be treated as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by applicable Law.

(i) No Contribution. Seller will not have any right of contribution, right of indemnity or other right or remedy against the Company in connection with any indemnification obligation or any other Liability to which Seller may become subject under or in connection with this Agreement or otherwise.

(j) Reliance; Knowledge. Seller and Buyer each acknowledge that (i) only representations, warranties, covenants or agreements expressly made in this Agreement will be deemed to be representations, warranties, covenants or agreements for purposes of this Agreement, and (ii) neither Party has relied on any representation, warranty, covenant or agreement not expressly made in this Agreement in consummating the transactions described herein. The right to indemnification, payment, reimbursement, or other remedy based upon any representation, warranty, covenant, or agreement will not be affected by any investigation (including any environmental investigation or assessment) conducted or any knowledge acquired at any time, whether before or after the Closing Date, with respect to the accuracy or inaccuracy of, or compliance with, such representation, warranty, covenant, or agreement.

(k) No Materiality. Any determination of (i) whether a breach of any representation, warranty, covenant or agreement set forth in this Agreement or (ii) the dollar amount of damages suffered by an Indemnified Party as a result of any such breach, shall be made without regard to any materiality, Material Adverse Effect or material adverse qualifiers set forth in the applicable representation, warranty, covenant or agreement.

(l) Set off. In addition to all other remedies provided herein, each Party shall have the sole and absolute right to set off any Losses that are owed by such Party to the other Party's Indemnified Party under this Article X against any Liability owed by such Party or its Affiliates to the other Party or its Affiliates.

[redacted]

[redacted]

Section 10.3 Limitation of Liability. Notwithstanding anything to the contrary in this Agreement:

(a) If Delay Liquidated Damages accrue, then Buyer's retention of the Delay Liquidated Damages or Seller's payment of the Delay Liquidated Damages, as the case may be, shall in each case constitute liquidated damages for the delay. The Parties acknowledge and agree that actual damages, costs or expenses of any such event would be difficult to ascertain and that the liquidated damages remedy provided for hereunder is a fair and equitable amount to reimburse Buyer for damages sustained due to such event and is not a penalty.

(b) SUBJECT TO THE NEXT SENTENCE, IN NO EVENT SHALL EITHER PARTY TO THIS AGREEMENT BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, REMOTE, CONSEQUENTIAL, UNFORESEEABLE, SPECULATIVE OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT TO THIS AGREEMENT. THE FOREGOING EXCLUSION SHALL NOT PRECLUDE RECOVERY (I) FOR LIQUIDATED DAMAGES CONTEMPLATED PURSUANT TO SECTION 3.16 AND SECTION 10.3(a), OR (II) UNDER ANY INDEMNITY IN ARTICLE X TO THE EXTENT THAT INDEMNIFICATION OBLIGATIONS IN RESPECT OF THIRD-PARTY CLAIMS COULD BE DEEMED TO BE LIMITED BY THE FOREGOING OR (III) UNDER ANY INDEMNITY IN ARTICLE X TO THE EXTENT THAT INDEMNIFICATION OBLIGATIONS DIRECTLY RESULT IN A LOSS OF ITC OR OTHER TAX BENEFITS, ON THE PART OF BUYER.

(c) The Parties' indemnification obligations under Section 10.2 shall be limited as follows:

(i) the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 10.2(a)(i) and Section 10.2(a)(iii) shall not exceed the Purchase Price, and the aggregate Losses to which the Seller Indemnified Parties shall be entitled under Section 10.2(b)(i) and Section 10.2(b)(iii) shall not exceed the Purchase Price;

(ii) the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 10.2(a)(v) [redacted]

(iii) the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 10.2(a)(ii) shall not exceed the Indemnity Cap; and

(iv) the aggregate Losses to which the Seller Indemnified Parties shall be entitled under Section 10.2(b)(ii), shall not exceed the Indemnity Cap.

provided, however, that the limitations of liability set forth above is unrelated to and shall not apply in respect of claims for fraud, intentional breach or willful misconduct;

ARTICLE XI
TERMINATION

Section 11.1 Termination.

(a) Termination by Buyer. This Agreement may be terminated prior to the Closing by Buyer upon written notice to Seller of such termination as follows:

(i) in the event that any of the Commission Approvals have not been received by the Commission Approval Deadline, or if Buyer determines in its sole discretion (based on responses from the Commission(s), their staffs, other state officials, or other credible information upon which it is reasonable for Buyer to rely) at any time prior to the Commission Approval Deadline that it is unlikely that one or more of the Commission Approvals will be obtained by the Commission Approval Deadline, effective immediately upon Seller's receipt of notice from Buyer;

(ii) in the event a Seller Parent Guaranty Default occurs and Replacement Credit Support is not provided in accordance with Section 4.6, effective immediately upon Seller's receipt of notice from Buyer;

(iii) in the event the conditions precedent to Closing set forth in Section 7.1 have not been fulfilled or waived, on or before (such date, the "***Outside Date***") effective immediately upon Seller's receipt of notice from Buyer);

[redacted] and provided further, however, that Buyer may not terminate this Agreement pursuant to this Section 11.1(a)(iii) if Buyer's failure to fulfill any material obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to such date;

(iv) upon the occurrence of a Bankruptcy Event with respect to Seller or the Company, effective immediately upon Seller's receipt of notice from Buyer;

[redacted]

(vi) in the event the Notice to Proceed Date has not occurred on or before the Notice to Proceed Outside Date, effective immediately upon Seller's receipt of notice from Buyer.

(b) Termination by Seller. This Agreement may be terminated prior to the Closing by Seller upon written notice to Buyer of such termination as follows:

(i) in the event the conditions precedent to Closing set forth in Section 8.1 have not been fulfilled or waived, on or before the Outside Date; provided, however, that Seller may not terminate this Agreement pursuant to this Section 11.1(b)(i) if (A) Seller's failure to fulfill any material obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to such date;

(ii) upon the occurrence of a Bankruptcy Event with respect to Buyer, effective immediately upon Buyer's receipt of notice from Seller;

[redacted]

(iv) in the event the Notice to Proceed Date has not occurred on or before the Notice to Proceed Outside Date, effective immediately upon Buyer's receipt of notice from Seller.

Section 11.2 Effect of Termination. Upon termination, the Parties shall have no further liabilities or obligations under this Agreement, except that (a) the applicable provisions of Article XI shall continue to apply following any such termination, (b) each Party shall continue to be liable for any material breach by such Party of its representations, warranties or covenants contained in this Agreement occurring prior to such termination and Section 10.3(b) shall survive solely to the extent necessary with regard to the applicable limitation of liability, provided, that Seller shall not be liable for Loss of ITC or other tax benefits; (c) each Party shall continue to be liable for the performance of any obligations that are expressly required to be performed by such Party following the termination of this Agreement, including the applicable provisions of Section 3.24(b), (d) if this Agreement is validly terminated by Buyer pursuant to Section 11.1(a)(v) (Notice to Proceed)

and such failure to deliver Notice to Proceed is due to a material breach by Seller of any of its representations, warranties and covenants herein and is not due to failure of the conditions set forth in Section 3.10(a), (b) or (h) to have been satisfied, then Seller shall pay a termination payment to Buyer, as damages, in an amount equal to all reasonable and documented costs and expenses incurred by Buyer in connection with the negotiation of this Agreement and the Ancillary Agreements prior to the date of such termination, and (e) if this Agreement is validly terminated by Seller pursuant to Section 11.1(b)(iv) (Notice to Proceed) and such failure to deliver Notice to Proceed is due to a material breach by Buyer of any of its representations, warranties and covenants herein, Buyer shall pay a termination payment to Seller, as damages, in an amount equal to all reasonable and documented costs and expenses incurred by Seller in connection with the negotiation of this Agreement and the Ancillary Agreements prior to the date of such termination.

ARTICLE XII
MISCELLANEOUS

Section 12.1 Payment Instructions. All amounts payable under this Agreement shall be made pursuant to the payment instructions provided by the payee of such amount to the payor thereof in writing at least [redacted] before the date on which such payment is due.

Section 12.2 Assignment. Seller may not assign any of its rights or obligations under this Agreement without the prior written consent of Buyer; [redacted]

Section 12.3 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement, including all documents delivered pursuant to this Agreement, shall be in writing (which may include electronic mail) and shall be deemed to have been duly given when received if personally delivered; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express or UPS); upon receipt, if sent by certified or registered mail, return receipt requested; and upon transmission by the sender to the correct electronic mail address, if sent by electronic mail; provided that notice transmitted by electronic mail shall not be effective unless receipt is confirmed by the recipient by return email or read receipt. In each case notice shall be sent to:

If to Seller, to:

RWE Solar Development, LLC
c/o RWE Clean Energy, LLC
353 N. Clark Street, 30th Floor
Chicago, IL 60654
Attn: [redacted]
Phone [redacted]
Email [redacted]

With a copy to (which copies shall not constitute notice hereunder):

RWE Clean Energy, LLC
Attn: [redacted]
353 N. Clark Street, 30th Floor
Chicago, IL 60654
Email: [redacted]

If to Buyer, to:

Appalachian Power Company
c/o American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215
Attn: [redacted]
Phone: [redacted]
Email: [redacted]

With a copy to (which copy shall not constitute notice hereunder):

Appalachian Power Company
c/o American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215
Attn: [redacted]
Phone: [redacted]
Email: [redacted]

or to such other place and with such other copies as a Party may designate as to itself by written notice to the other Party.

Section 12.4 Choice of Law; Consent to Jurisdiction; Service of Process.

(a) Governing Law. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the Laws of the State of New York without reference to its choice of law provisions.

(b) Executive Dispute Resolution. [redacted]

(c) Jurisdiction. The Parties hereto hereby irrevocably submit to the exclusive jurisdiction of the federal or state courts located in the State of New York over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby; and each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding shall be heard and determined in such federal courts unless such federal courts do not have jurisdiction in which event such dispute or proceeding shall be heard and determined in such state courts. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum.

(d) Service of Process. Each of the Parties hereto hereby consents to process being served by the other Party to this Agreement in any suit, action or proceeding of the nature specified in Section 12.4(c) by mailing of a copy thereof in accordance with the provisions of Section 12.2 hereof.

(e) Technical Disputes. In the event of any dispute between the Parties with respect to whether the Work was completed in accordance with the terms of this Agreement, whether Mechanical Completion, Substantial Completion or the Final Completion have occurred or whether an item is an MC Punch List Item or an SC Punch List Item (each, a "***Technical Dispute***"), either Party may make a written request that it be resolved by binding arbitration before an Independent Engineer in accordance with this Section 12.4(e). Within [redacted] of such a request, Seller and Buyer shall jointly engage the Independent Engineer to resolve the Technical Dispute, and [redacted] after the Independent Engineer has been jointly engaged by Seller and Buyer, each Party will submit to the Independent Engineer a written description of the Technical Dispute and of that Party's position with regard to the Technical Dispute. The Independent Engineer may request that the Parties meet in person or electronically with the Independent Engineer to discuss the dispute. The Independent Engineer may request further information from the Parties. The Independent Engineer will issue a written determination of the resolution of the Technical Dispute [redacted] of submission of both Parties' descriptions and positions. The resolution of the Technical Dispute by the Independent Engineer will be final and binding on the Parties absent manifest error. The Parties shall equally bear all of the fees and expenses of the Independent Engineer in determining the dispute from the other Party. In the event that one Party pays for all or a greater than [redacted] of any fees and expenses payable to the Independent Engineer, then

that Party shall invoice the other Party in writing and such invoice shall be payable [redacted] of receipt of such invoice.

Section 12.5 Waiver of Jury Trial. EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.6 Entire Agreement; Amendments and Waivers. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements and commitments with respect thereto. No supplement, modification or waiver of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) or any other breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

Section 12.7 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 12.8 Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein (other than a requirement to make payments hereunder), shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

Section 12.9 Titles. The recitals to this Agreement and the titles, captions or headings of the Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 12.10 Third Party Beneficiaries. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Buyer Indemnified Parties and Seller Indemnified Parties shall be third party beneficiaries of this Agreement, provided that only Seller or Buyer may enforce the provisions hereof on behalf of their respective indemnified parties. Except as provided in this Section 12.10, there shall be no third-party beneficiaries of this Agreement.

Section 12.11 Cumulative Remedies. Subject to the terms of this Agreement, all rights and remedies of either Party hereto are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or

remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

Section 12.12 No Partnership or Joint Venture. The Parties hereto do not intend to create a partnership or joint venture by virtue of this Agreement. No Party shall owe any fiduciary duty to any other Party by virtue of this Agreement or any Ancillary Agreement or otherwise.

Section 12.13 No Merger. This Agreement is a fully integrated complete agreement and is not merged with or extinguished by any other agreement.

Section 12.14 Enforcement of Agreement. Each Party acknowledges and agrees that the other may be irreparably harmed if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by a Party may not be adequately compensated in all cases by monetary damages alone. Accordingly, each Party agrees that, in addition to any other right or remedy to which a Party may be entitled at law or in equity, each Party shall be entitled to seek to enforce any provision of this Agreement by a decree of specific performance and to seek temporary, preliminary, and permanent injunctive relief to prevent breaches or threatened breaches, without posting any bond or giving any other security or undertaking.

[SIGNATURE PAGE FOLLOWS]

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

SELLER:

RWE Solar Development, LLC

By:_____
Name:
Title:

BUYER:

APPALACHIAN POWER COMPANY

By:_____
Name: Aaron D. Walker
Title: President and Chief Operating Officer

BUYER AGENT:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By:_____
Name: Michael L. Deggendorf
Title: Senior Vice President

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT dated as of May 2, 2025 (the "***Execution Date***"), is made and entered into by and between EDF-RE US Development, LLC, a Delaware limited liability company (the "***Seller***"), Appalachian Power Company, a Virginia corporation (the "***Buyer***"), and solely with respect to its agency relationship with Buyer hereunder, American Electric Power Service Corporation, a New York corporation ("***Buyer Agent***").

RECITALS

A. Seller is the owner of one hundred percent (100%) of the Equity Interests of Livingston Wind Project, LLC, a Delaware limited liability company (the "***Company***") (such interests, the "***Purchased Interests***"), which owns all of the rights and Assets with respect to the Project (defined below).

B. The Company is developing and constructing an up to 261 MWac (the "***Anticipated Total Capacity***") wind energy generating facility as more particularly described in Schedules 1.1(c) and 4.4(a) and Exhibit M (the "***Project***").

C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, one hundred percent (100%) of the Purchased Interests, including ownership of the Project following Mechanical Completion thereof, pursuant to the terms and subject to the conditions of this Agreement.

D. At or immediately following the Closing, (i) Buyer intends to either cause the Company to distribute the Project and related Assets to Buyer or merge the Company with and into Buyer, with Buyer surviving the merger (the "***Assets Distribution to Buyer or Merger***"), and (ii) thereafter, Buyer and Seller desire for Seller to perform and complete the development, construction and commissioning of the Project after the Closing pursuant to this Agreement [redacted].

AGREEMENT

NOW THEREFORE, in consideration of the sums to be paid to Seller by Buyer hereunder and the mutual representations, warranties, covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF INTERPRETATION

Section 1.1 Defined Terms. For purposes of this Agreement, the following capitalized terms shall have the following meanings:

"***1933 Act***" means the Securities Act of 1933, as amended.

"***Abnormal Weather Conditions***" means (a) any weather event that has a likelihood of occurrence at the Site of less than [redacted] in a given calendar year, when compared to the weather patterns for the past [redacted] years, (b) flash floods, river floods, hailstorms,

windstorms, tornadoes, and hurricanes, regardless of whether they meet the standards of clause (a) above, or (c) any weather event for which a Contractor is entitled to relief under the Transformer Supply Agreement or any other Major Project Document that has been approved by Buyer in accordance with Section 4.4(e), regardless of whether they meet the standards of clause (a) above. The source of weather data for the comparisons described in clause (a) of the preceding sentence shall be the weather data from the National Weather Service at the National Oceanic and Atmospheric Administration or the National Snow and Ice Data Center, as applicable, for the monitoring location closest to the Site; provided, that to the extent that past weather data is not available for the Site for the historical periods described in clause (a) of the preceding sentence, historical weather data for Livingston County, Illinois shall be used as a substitute.

"***Acceptable Credit Rating***" means, with respect to a Person, a Credit Rating of at least (a) "BBB-" by S&P and "Baa3" by Moody's, if such entity is rated by both S&P and Moody's or (b) "BBB-" by S&P or "Baa3" by Moody's, if such entity is rated by either S&P or Moody's, but not both.

"***Acquisition Proposal***" means any proposal for a merger, consolidation or other business combination involving the Company or the Project, or any proposal or offer to acquire, directly or indirectly, in any manner, any Equity Interest, or any Assets of, the Company or the Project.

"***Action***" means any legal, administrative, arbitral, mediation or other alternative dispute resolution procedure or other action, proceeding, claim, demand, assessment, audit, inquiry or similar investigation.

[redacted]

"***Adverse Effect***" means [redacted]

"***AEP Safety Criteria***" means, with respect to any proposed contractor, (i) an Experience Modification Rate (EMR) of no greater than 1.00 as calculated by Company's workers compensation insurer using a three-year rolling average, and (ii) a Total Recordable Incident Rate (TRIR) of 2.00 or less determined in accordance with the guidelines of the Occupational Health and Safety Administration on an average basis over the three calendar years preceding the date of determination, (iii) recordable incidents in the calendar year in which the determination is made would not reasonably be expected to result in a TRIR of 2.00 or less determined on an average basis for such calendar year and the two preceding calendar years, (iv) zero reportable fatalities on projects of such contractor and its Affiliates during the calendar year in which the determination is made and the three prior calendar years, and (v) such proposed contractor is registered and active with Safety Management Group's VERO program.

"***AEP Supplier Code of Conduct***" means the American Electric Power Supplier Code of Conduct attached hereto as Exhibit T.

"***Affiliate***" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

[redacted]

"***Agreement***" means this Purchase and Sale Agreement, including all Exhibits and Schedules hereto, as the same may be modified, amended or supplemented from time to time in accordance with Section 13.6.

"***Ancillary Agreements***" means the Membership Interest Assignment, [redacted], the Excluded Assets and Liabilities Assignment Agreement, the Seller Parent Guaranties, the Consent and Recognition Agreement, and any other agreement or instrument executed and delivered by the Parties or by either Party or any Affiliate of such Party to the other Party pursuant to this Agreement.

"***Anticipated Total Capacity***" is defined in Recital B.

"***Apprenticeship Requirements***" means the requirements under Code Section 48(a)(11) or 48E(d)(4), as applicable (using an applicable percentage rate of fifteen (15) percent for purposes of such requirements), and any PWA Guidance that must be satisfied with respect to any CAR Work performed by Seller or any PWA Subcontractor prior to the ITC Qualified Facility being Placed in Service, which are requirements for the ITC Qualified Facility to satisfy the requirements of Code Sections 48(a)(9)(B)(iii) and 48E(a)(2)(B)(ii)(III), as applicable, subject to any applicable Good Faith Effort Exception.

"***As-Built Defects***" means matters reflected in the As-Built Survey delivered under Section 10.5(b) that (i) constitute an As-Built Survey Encumbrance or (ii) reflect that (A) the as-built Facilities or the location thereof are not consistent in all material respects with the Site Plan, as it may have been amended with the written approval of Buyer, (B) any portion of the Facilities is located off the Property or does not comply with any required setback, or (C) any of Seller's representations or warranties [redacted] has been breached.

"***As-Built Retained Liabilities***" means any Liability incurred by the Company or Buyer associated with the As-Built Defects (whether incurred before or after the Closing), including amounts necessary to cure or resolve the As-Built Defects.

"***As-Built Survey***" means the final Survey showing the as-built Facilities consistent in all material respects with the Site Plan and reflecting resolution of Buyer's survey concerns identified within its Title Objections and Updated Title Objections, including, without limitation, all cleanup survey matters.

"***As-Built Survey Encumbrance***" means any matter reflected in the As-Built Survey, if any, delivered under Section 10.5(b) that constitutes an Encumbrance other than a Permitted Encumbrance.

"***Assets***" of any Person means all assets, rights and properties of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible and wherever situated), including the related goodwill, which assets, rights and properties are operated, owned, leased or licensed by such Person.

"***Assets Distribution to Buyer or Merger***" is defined in Recital D.

[redacted]

"***Authority***" means any federal, state, tribal, municipal, national or other government, quasi-governmental, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof, regional transmission organization, independent system operator, or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States or the United States.

"***Balance Sheet***" is defined in Section 6.24(a).

"***Balance Sheet Date***" means February 28, 2025.

"***Bankruptcy Event***" shall be deemed to occur, with respect to any Person, if (a) that Person shall commence any voluntary case under any applicable bankruptcy or similar Law; (b) such Person shall consent to the appointment of a receiver, administrator, administrative receiver, liquidator, trustee or other official with similar powers for itself or all or substantially all of its assets; (c) such Person shall make a general assignment for the benefit of its creditors; (d) an involuntary case shall be commenced seeking liquidation or reorganization of such Person under any bankruptcy or similar Law and (i) such Person consents to the institution of the involuntary case against it, (ii) such involuntary case shall remain undismissed, unbonded or unstayed for a period of sixty (60) consecutive days, or (iii) an order for relief shall have been issued or entered therein; (e) a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, administrator, administrative receiver, liquidator, trustee or other official having similar powers, over such Person or all or substantially all of its property shall have been entered; or (f) such Person shall be unable to, or shall admit in writing its inability to, pay its debts generally as they become due.

"***Base Purchase Price***" means [redacted].

"***Baseline Amount***" means an amount equal to (a) [redacted] of the Purchase Price minus (b) an amount equal to the sum of (i) the Updated Property Burdens Adjustment, plus (ii) any Known Breach Escrow Amount, plus (iii) the unpaid MC Delay Liquidated Damages, if any.

"***Beginning of Construction Certificate (Closing Date)***" means that certain Beginning of Construction Certificate (Closing Date), dated as of the Closing Date, made by Seller in favor of Buyer, a copy of which is attached hereto as Exhibit HH-1, updated (to the extent reasonably satisfactory to Buyer) to reflect true and accurate facts as of the Closing Date.

"***Beginning of Construction Certificate (Execution Date)***" means that certain Beginning of Construction Certificate (Execution Date), dated as of the Execution Date, made by Seller in favor of Buyer, a copy of which is attached hereto as Exhibit HH-2.

"***Beginning of Construction Certificate (Firm Date)***" means that certain Beginning of Construction Certificate (Firm Date), dated as of the Firm Date, made by Seller in favor of Buyer, a copy of which is attached hereto as Exhibit HH-3, updated (to the extent reasonably satisfactory to Buyer) to reflect true and accurate facts as of the Firm Date.

"***Benefit Plan***" means "employee benefit plan," as such term is defined in Section 3(3) of ERISA, or other pension, bonus, profit sharing, stock option or other agreement or arrangement providing for employee remuneration or benefits, including a "multiemployer plan," as that term is defined in Section 4001(a)(3) of ERISA.

[redacted]

"***Breaker Supplier***" means [redacted] or another approved contractor reasonably acceptable to Buyer.

"***Breaker Supply Agreement***" means the supply agreement to be entered into between Breaker Supplier and Company on terms and conditions consistent with the minimum required terms set forth on Exhibit FF, the Scope of Work and Specifications, and this Agreement and as otherwise reasonably approved by Buyer pursuant to the terms and conditions of this Agreement.

"***Buffer Zone***" means those parcels of real property for which Seller is required to use commercially reasonable efforts to obtain Wind Project Neighbor Easement Agreements from the Required Neighbor Easement Landowners in accordance with the Neighbor Easement Agreement Plan and Section 4.10.

"***Building and Construction Trade Unions***" means the International Brotherhood of Electrical Workers, Laborers International Union, and any other trade union suitable to perform all or a portion of the Work.

"***Business***" means the ownership of the Company Assets and the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project and the conduct of other activities by the Company related or incidental to the foregoing, all as currently conducted or to be conducted.

"***Business Day***" means any day other than Saturday, Sunday or any day on which banks located in New York, New York, or Columbus, Ohio, are authorized or obligated, in each case pursuant to applicable law, to close.

"***Buyer***" is defined in the introductory paragraph of this Agreement.

"***Buyer Agent***" is defined in the introductory paragraph of this Agreement.

"***Buyer-Caused Delay***" means [redacted]

"***Buyer Commission Approval Deadline***" means December 31, 2025.

"***Buyer Commission Approvals***" means the final non-appealable order(s) from the Commissions contemplated on Schedule 7.4.

"***Buyer Confidential Information***" is defined in Section 10.2(a).

"***Buyer Consents***" is defined in Section 7.4.

"***Buyer Firm Date CPs***" is defined in Section 3.2.

"***Buyer-Furnished Equipment***" means the equipment identified on Exhibit II.

"***Buyer Indemnified Parties***" is defined in Section 11.2(a).

"***Buyer Indemnifying Party***" is defined in Section 11.2(b).

"***Buyer Permits***" is defined in Section 6.14(a). Buyer Permits includes, without limitation (a) any license, consent, certificate (including permanent unconditional certificate of occupancy), approval, permit, authorization, determination, concurrence, franchise and similar written consents and Orders of any sort whatsoever by or from any Authority, for the Assets Distribution to Buyer or Merger, and (b) any required notice to, or declaration, filing, or registration with, any Authority, in each case in connection with the Assets Distribution to Buyer or Merger; provided, that Buyer Permits do not include any of the items described in clause (a) or (b) above that are required to be obtained from any Authority (including the approval of Livingston County, Illinois) for the assignment or transfer to Buyer of any Permit held by the Company prior to the Closing Date pursuant to the terms of such Permit (including the applicable Law pursuant to which such Permit is required).

[redacted]

"***Buyer Responsibility Firm Date Conditions***" means each of the Firm Date Conditions set forth in the following Sections: 3.2(j), 3.2(q), 3.3(a), 3.4(c), and 3.4(h) (solely with respect to Buyer Consents).

"***Buyer Scope of Work***" means the scope of work set forth in Section 15 of the Scope of Work and Specifications.

"***Buyer's Fundamental Representations***" means the representations and warranties contained in [redacted]

"***Buyer's Knowledge***" means the actual knowledge of any of the individuals listed on Schedule 1.1(a) after reasonable inquiry by such individuals of those employees of Buyer who are responsible for the subject matter of the representation and warranty or other matter involved.

"***Buyer's Site Representative***" is defined in Section 4.2(b).

"***CAR Work***" means any Work performed at any PWA Site with respect to the Project constituting "construction, alteration, or repair" within the meaning of Treasury Regulations Section 1.45-7(d)(3) or any successor PWA Guidance.

[redacted]

[redacted]

"***Closing***" is defined in Section 2.4(b).

"***Closing Date***" is defined in Section 2.4(b).

[redacted]

"***Closing Payment***" means the following amount in dollars, which will not, in any event, be less than zero dollars:

(a) [redacted] the Purchase Price,

(b) plus the Post-Closing Proration Amount,

(c) minus the sum of :

(i) the Payoff Amount, plus

(ii) the Updated Property Burdens Adjustment, plus

(iii) any Known Breach Escrow Amount, if applicable, plus

(iv) the unpaid MC Delay Liquidated Damages, if any.

"***Closing Statement***" is defined in Section 2.4(a).

"***Closing Statement Update***" is defined in Section 2.4(a).

"***Closing Title Endorsements***" means the standard ALTA title insurance endorsements listed on Exhibit A attached hereto covering the Real Property and Facilities.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder.

[redacted]

"***Commission Approvals***" means the Buyer Commission Approvals.

"***Commissions***" means the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

"***Company***" is defined in Recital A. For the avoidance of doubt, after Closing, if Buyer consummates a Assets Distribution to Buyer or Merger, then "Company" shall thereafter mean Buyer and its successors and assigns.

"***Company Assets***" means, unless otherwise provided herein, all of the Assets of the Company, including:

(a) the Wind Data;

(b) the Facilities;

(c) the Material Contracts;

(d) the Property Agreements;

(e) the Permit Applications and the Company Permits;

(f) all RECs and Environmental Attributes of the Project;

(g) the Corporate Records;

(h) the Interconnection Rights;

(i) the Real Property;

(j) the design layout of the Facilities;

(k) all emissions allowances or credits, renewable energy credits, green tags, or other environmental or financial attributes of the Facilities, if any; and

(l) all PTCs, ITCs, and other federal, state or local tax credits, deductions, or exemptions, abatements or other Tax benefits, and federal or state cash payments or outright grants of money, in each case relating to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation or maintenance of the

Facilities (including any documentation or information that is prepared, compiled or obtained in connection with any taxpayer claiming or monetizing any item described in this clause (l)).

"***Company Permits***" is defined in Section 6.14(a).

"***Component***" means all parts, materials, equipment, components and systems incorporated into the Work.

"***Consent and Recognition Agreement***" means an agreement between Buyer and the Financing Agent containing a consent to collateral assignment to the Financing Parties during the period prior to Closing and recognition by the Financing Parties of this Agreement, in form and substance reasonably satisfactory to Buyer.

[redacted]

"***Construction Loan Agreement***" means (a) the loan or credit agreement to be entered into among the Company, as borrower, and the Financing Parties from time to time party thereto, with respect to the Financing, and (b) the other documents, instruments and agreements entered into in connection with the Financing.

"***Contract***" means any legally binding agreement, contract, lease, easement, license, deed, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other legally binding arrangement, but excludes Permits.

"***Contractor Background Information***" means, with respect to any potential contractor that Seller wishes to cause the Company to enter into a Major Project Document with, (i) the most recent three (3) fiscal years of audited financial statements of such potential contractor, if any, (ii) the most recent quarterly unaudited financial statements of such potential contractor, (iii) the safety metrics of such potential Contractor included in the AEP Safety Criteria, and (iv) except with respect to the Provisionally-Approved EPC Contractors, information about the experience and performance of such contractor on wind generation projects in the United States of a similar size as the Project.

"***Contractors***" means the EPC Contractor, the Turbine Supplier, the Transformer Supplier, the Breaker Supplier and each other counterparty to any Contract related to the Work.

"***Corporate Documents***" means the articles or certificate of incorporation and bylaws of a corporation or the equivalent constitutive documents of a limited liability company, partnership, limited partnership or other entity, including (a) any shareholder, voting trust, limited liability company agreement, operating agreement, partnership agreement, or similar Contract and (b) any documents that are required to be registered or kept in the place of incorporation, organization or formation of such Person and which establish the legal personality or governance of such Person.

"***Corporate Records***" means the minute books, membership interest certificates (if any), membership interest transfer ledgers and Corporate Documents of the Company.

"***Credit Rating***" means, for any Person, the lower of the senior unsecured and non-credit-enhanced long-term debt rating of such Person by Moody's or S&P, or if such Person does not have such a senior unsecured and non-credit-enhanced long-term debt rating, the lower of the issuer rating of such Person by Moody's or S&P.

"***Creditworthy Bank***" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof or foreign bank with a U.S. branch office, who is not the account party or the account party's Affiliate under the Letter of Credit with (i) a Credit Rating of at least (a) "A" by S&P and "A2" by Moody's, if such entity is rated by both S&P and Moody's or (b) "A" by S&P or "A2" by Moody's, if such entity is rated by either S&P and Moody's, but not both, and (ii) having a capital and surplus of at least Ten Billion Dollars USD ($10,000,000,000).

"***Crossing Agreements***" means written agreements, consents, letters of no-objection, waivers or affidavits made for the benefit of Company and issued by all necessary parties that authorize the installation, maintenance and operation of the Facilities in, over or with respect to (as applicable) restrictive rights-of-way, easements or other areas subject to Permitted Encumbrances that require consent or approval for the installation, maintenance or operation of the Facilities located on the subject real property, or as may be required by Title Company in order to issue an ALTA 36.6 endorsement or other required Closing Title Endorsements.

"***Daily Site Entry Log***" means a site entry log substantially in the form of Exhibit CC-1.

"***Default***" means any circumstance, event or condition that, with or without notice or the passage of time or both, would constitute a violation, breach or event of default, or give rise to any penalty or right of termination, cancellation, acceleration or modification, or require any consent or waiver.

"***Delay Liquidated Damages***" means MC Delay Liquidated Damages and SC Delay Liquidated Damages.

[redacted]

"***DOL***" means the United States Department of Labor.

"***DOL Form WH-347***" means Wage Hour Form 347 of the Wage and Hour Division of the DOL.

[redacted]

"***Domestic Content Guidance***" means (i) IRS Notice 2023-38, IRS Notice 2024-9, and IRS Notice 2024-41, and IRS Notice 2025-08, and (ii) any guidance or any proposed, temporary or final regulations issued by the U.S. Department of the Treasury, the IRS or any other applicable

[redacted]

"***Domestic Content Requirements***" means the requirements under Code Sections 48(a)(12) and 48E(a)(3)(B), as applicable, and any Domestic Content Guidance that must be satisfied with respect to the ITC Qualified Facility to allow such ITC Qualified Facility to satisfy the requirements of Code Sections 48(a)(12)(A) and 48E(a)(3)(B).

"***Drop Dead Date***" means [redacted], which date may not be extended for any reason except by a written amendment to this Agreement executed by the Parties that expressly extends the Drop Dead Date.

"***Easement Estoppels***" means the estoppel certificates from the grantors under those Land Contracts which constitute easements in substantially the form attached hereto as Exhibit B.

"***Electronic Data Room***" means the SharePoint website hosted by Buyer in the folder at [redacted] to which Seller and certain of its Representatives have been provided access.

"***Encumbrances***" means any encumbrance, mortgage, pledge, deed of trust, easement, hypothecation, security interest, charge, claim, lease, interest, mineral reservation, covenant, lien, option, equitable interest, purchase right, third party right, encroachment, right-of-way, license, restriction, right of first option or refusal, the interest of a vendor, lessor or other similar party under any conditional sale, capital lease or other title retention agreement, or similar restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership, or other agreement or arrangement that has the same or a similar effect as the granting of security, or any legal obligation to create any of the foregoing.

[redacted]

"***Environmental Attributes***" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, related to the Project (including emissions reduction credits or allowances under all applicable emission trading, compliance or budget programs, or any other federal, state or regional emission, renewable energy or energy conservation trading or budget program), but excluding any Tax benefits or credits associated with the Project. Environmental Attributes include but are not limited to: (a) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOX), carbon monoxide (CO), and other pollutants; and (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United States Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.

"***Environmental Laws***" means all Laws and Permits relating to the environment, human health, safety, natural resources, plant and animal species, cultural and archaeological resources,

or the use of or Release into the environment of any Hazardous Materials, including the Clean Air Act (42 U.S.C. §7401 et seq.), the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 (42 U.S.C.§9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), the Safe Drinking Water Act (42 U.S.C. §300f et seq.), the U.S. Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), the Endangered Species Act (16 U.S.C. §1531 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. §668 et seq.), the Migratory Bird Treaty Act (16 U.S.C. §703 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 to 4370h), the National Historic Preservation Act (16 U.S.C. §§ 470 et seq.), and Title 14 Code of Federal Regulations Part 77, and 49 U.S.C. § 44718, and any similar or analogous state and local statutes or regulations promulgated thereunder and decisional law of any Authority, as each of the foregoing has been or may be amended or supplemented from time to time in the future, and any applicable standard of conduct under any common law doctrine, including negligence, nuisance or trespass, personal injury or property damage related to or arising out of the presence, Release or exposure to Hazardous Materials.

[redacted]

"***EPC Contract***" means that certain Balance of Plant and Installation Agreement to be entered into between EPC Contractor and Company on terms and conditions consistent with the minimum required terms set forth on Exhibit C, for all of the EPC Work in accordance with the Scope of Work and Specifications, and this Agreement and as otherwise reasonably approved by Buyer pursuant to the terms and conditions of this Agreement.

[redacted]

[redacted]

"***EPC Contractor***" means one of the contractors approved by Buyer in accordance with Section 4.4(k) that will be a counterparty to the EPC Contract.

[redacted]

"***EPC Work***" means the entire scope of Work for the Project other than the Work to be provided by the Turbine Supplier under the Turbine Supply Agreement and the Transformer Supplier under the Transformer Supply Agreement, including (i) all of the design and engineering Work for the Project, other than the design and engineering Work provided by the Turbine Supplier pursuant to the Turbine Supply Agreement and the Transformer Supplier under the Transformer Supply Agreement, and (ii) the provision of warranties for all equipment procured for the Project, [redacted]

"***Equity Interests***" means capital stock, partnership, membership or trust interests, shares or units (whether general or limited), and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing entity.

"***Equity Securities***" means (a) Equity Interests, (b) subscriptions, calls, warrants, options or commitments of any kind or character legally entitling any Person to acquire, any Equity Interests and (c) securities convertible into or exercisable or exchangeable for Equity Interests.

"***ERISA***" means the Employee Retirement Income Security Act of 1974.

[redacted]

"***Exception Documents***" is defined in Section 4.6(c)(iii).

[redacted]

"***Excluded Assets***" means those Assets listed on Schedule 1.1(b).

"***Excluded Assets and Liabilities Assignment Agreement***" means an assignment agreement to convey Excluded Assets and Excluded Liabilities from the Company to Seller or one of its Affiliates, in the form attached hereto as Exhibit D.

"***Excluded Liabilities***" means, collectively, the following Liabilities:

(a) [redacted]

(b) [redacted]

(c) [redacted]

(d) [redacted]

(e) [redacted];

(f) [redacted]

[redacted]

(g) [redacted]

(h) [redacted]

(i) [redacted]

(j) [redacted]

(k) [redacted]

(l) [redacted]

(m) [redacted]

(n) [redacted]

(o) [redacted]

[redacted]

(p) [redacted]

(q) [redacted]

"***Execution Date***" is defined in the introductory paragraph of this Agreement.

"***Exhibits***" means the exhibits attached to, and expressly contemplated in, this Agreement, including those to be delivered at the Execution Date or at the Closing Date.

"***FAA***" means the Federal Aviation Administration, including its staff acting under delegated authority.

"***FAA DNH***" means a determination of no hazard to air navigation for each wind turbine location and meteorological tower location from the FAA based upon surveyed longitude, latitude and site elevation information included in the FAA Form 7460-1 Notice of Proposed Construction or Alteration.

"***FAA DNH Approvals***" is defined in Section 3.4(k).

"***Facilities***" means the wind power generating facilities, including the infrastructure facilities, towers, Turbines, spare part packages, transformers, power stations, O&M Building, electrical collector system, substation, communication lines, civil works, roads, fences, gates, foundations, project substation, transmission and gen tie lines (whether overhead or underground), laydown areas, work areas and other temporary and permanent fixtures, and all other equipment, components, materials, improvements and assets relating to the Project, including those set forth on Schedule 1.1(c).

"***FERC***" means the Federal Energy Regulatory Commission, including its staff acting under delegated authority.

"***Final Completion***" is defined in Exhibit O.

"***Final Completion Certificate***" means a certificate in the form attached hereto as Exhibit O-1 issued by Seller, certifying as to the satisfaction or achievement of Final Completion and attaching copies of each "Final Completion Certificate" (as such term is defined in the EPC Contract) issued by the EPC Contractors.

"***Final Completion Date***" means the date on which the Project shall have achieved Final Completion and the Final Completion Certificate with respect thereto shall have been accepted by (or pursuant to this Agreement is deemed accepted by) Buyer in accordance with Exhibit O.

"***Final Completion Payment***" means any remaining unpaid SC Punch List Holdback Amount as of the Final Completion Date.

"***Final EPE Report***" is defined in Section 2.11(c).

"***Final Estimated Produced Energy***" is defined in Section 2.11(d).

[redacted]

"***Financial Assurance Certificate***" is defined in Section 4.9(b).

"***Financial Close***" means execution and delivery of the Construction Loan Agreement by the Company and Financing Parties and initial drawdown of funds thereunder.

"***Financial Close Date***" means the date on which Financial Close occurs.

"***Financial Statements***" is defined in Section 6.24(a).

"***Financing***" is defined in Section 4.9(a).

"***Financing Agent***" means any single trustee, administrative agent or similar representative acting on behalf of the Financing Parties or such other single representative designated in writing by Seller.

"***Financing Costs***" means any and all costs and expenses associated with financing the Project (including for any required reserve funds or reserve fund insurance policies), including any financing costs or expenses incurred by Seller or the Company as part of a debt or equity financing for the Project, including any interest, discount, fees (including any fees payable to any agent, arranger or other Financing Party or Financing Agent, or to attorneys or other consultants or service providers engaged in connection with any financing), premiums, reimbursements, payments or premiums in connection with the redemption, repurchase or defeasance of any debt or equity financing, returns on capital or equity, payments in respect of swap, hedging, futures or other derivative contracts entered into in connection with or related to such debt or equity financing, make-whole or similar payments, or any other amounts payable by Seller or the Company that are in respect of or intended to directly or indirectly compensate any Person for providing any debt or equity financing in respect of the Project or Seller's obligations under this Agreement or to pay or reimburse any Person for any costs or expenses incurred in connection therewith.

"***Financing Parties***" means the lenders and/or equity investors (including any trustee or agent on behalf of such lenders (and other secured parties) and/or equity investors) providing equity and/or debt financing or refinancing or letters of credit to Seller or any of its Affiliates, successors or assigns, whether that financing or refinancing takes the form of private debt or equity, public debt or equity or any other form. For the avoidance of doubt, Financing Parties does not include Seller (as a funding source of capital contributions).

"***Firm Date***" means the first Business Day after (i) Buyer has confirmed all Buyer Firm Date Conditions are satisfied or waived, (ii) Seller has confirmed all Seller Firm Date CPs are satisfied or waived, and (iii) each Party has confirmed each of the Mutual Firm Date CPs is satisfied or waived.

"***Firm Date Conditions***" is defined in Section 3.1.

"***Firm Date Deadline***" means [redacted], as extended for a Seller Excusable Event to the extent provided in Section 4.12 or Section 4.21, but solely to the extent that such Seller Excusable Event delays the satisfaction of the Firm Date Conditions.

"***Firm Date EPE Report***" is defined in Section 2.11(b).

[redacted]

"***Firm Date Estimated Produced Energy***" is defined in Section 2.11(b).

[redacted]

"***Firm Date Wind Adjustment Report Objection Deadline***" is defined in Section 2.11(b).

"***Force Majeure***" is defined in Section 4.12(a).

[redacted]

"***GAAP***" means generally accepted accounting principles in the United States of America as recognized by the American Institute of Certified Public Accountants, consistently applied for a Person throughout the specified periods and maintained on a consistent basis for a Person throughout the period or periods indicated and consistent with such Person's prior financial practice.

"***Good Faith Effort Exception***" means the exception from compliance with the Apprenticeship Requirements provided for in Code Sections 48(a)(11) and 48E(d)(4) and the PWA Guidance (including Treasury Regulation Section 1.45-8(f)(1)).

"***Guaranteed Mechanical Completion Date***" means [redacted], which date may be extended by Seller Excusable Events solely to the extent provided in Section 4.12 or Section 4.21; provided, that in no event shall the Guaranteed Mechanical Completion Date be extended beyond the Drop Dead Date except by a written amendment to this Agreement executed by the

Parties that expressly extends the Guaranteed Mechanical Completion Date beyond the Drop Dead Date.

"***Guaranteed Substantial Completion Date***" means [redacted], which date may be extended by Seller Excusable Events that occur after the Mechanical Completion Date solely to the extent provided in Section 4.12 or Section 4.21; provided, that in no event shall the Guaranteed Substantial Completion Date be extended beyond the Turbine Substantial Completion Drop Dead Date except by a written amendment to this Agreement executed by the Parties that expressly extends the Guaranteed Substantial Completion Date beyond the Turbine Substantial Completion Drop Dead Date. The Guaranteed Substantial Completion Date may not be extended by Seller Excusable Events that occur before the Mechanical Completion Date and are not continuing after the Mechanical Completion Date.

"***Hazardous Materials***" means any substances, pollutants, contaminants, wastes, or materials (including petroleum (including crude oil or any fraction thereof), petroleum wastes, radioactive material, hazardous wastes, toxic substances, asbestos or any materials containing asbestos, urea formaldehyde, polychlorinated biphenyls, per and polyfluoralkyl substances, perfluorooctanoic acid, and perfluorooctane sulfate) designated, regulated, or defined under or with respect to which any requirement or Liability may be imposed pursuant to any Environmental Law.

[redacted]

"***Indebtedness***" means, with respect to any Person: (a) all obligations of such Person for borrowed money or with respect to deposits, overdrafts or advances of any kind, and all accrued but unpaid redemption or prepayment premiums or penalties and any other fees and expenses paid to satisfy such obligations; (b) all obligations of such Person evidenced by bonds, debentures, notes, mortgages, deeds of trust, assignments of rents, or similar instruments; (c) all obligations of such Person in respect of the deferred purchase price of property or services, including any such balance that constitutes an accrued expense or trade payable; (d) any obligations of others secured by (or for which the secured party has an existing right, contingent or otherwise, to be secured by) any Encumbrance on any real or personal property owned or acquired by such Person; (e) all obligations of such Person guaranteeing any indebtedness or other obligation of any other Person in any manner, whether directly or indirectly; (f) all obligations of such Person under capital or synthetic leases, conditional sales contracts and other similar title retention instruments; (g) all reimbursement obligations of such Person for drawn upon letters of credit and other similar instruments; (h) all obligations of such Person under any interest rate protection agreement, swap or collar agreement or other similar agreement designed to protect a Person against fluctuations in interest rates or other currency fluctuation or commodity hedging transaction; and (i) all other obligations of such Person in respect of any amount properly characterized as indebtedness in accordance with GAAP. The Indebtedness of any Person shall include all accrued but unpaid

interest, and penalties and fees and the Indebtedness of any other Person to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such other Person.

"***Indemnified Party***" or "***Indemnified Parties***" means, as applicable, the Buyer Indemnified Parties, the Seller Indemnified Parties or both the Buyer Indemnified Parties and the Seller Indemnified Parties.

"***Indemnifying Party***" means, as applicable, the Buyer Indemnifying Party, the Seller Indemnifying Party or both the Buyer Indemnifying Party and the Seller Indemnifying Party.

"***Indemnity Cap***" means an amount equal to [redacted] of the Purchase Price.

"***Independent Accountant***" means a nationally recognized firm of independent certified public accountants that is mutually acceptable to Seller and Buyer and that has not performed material services for Seller, Buyer, or any of their respective Affiliates, during the three (3) year period prior to the selection of the Independent Accountant.

"***Independent Engineer***" means [redacted] (or, if no such Person is available to provide its services, another nationally recognized engineering firm that is mutually acceptable to Seller and Buyer, that possesses substantial expertise with wind energy projects, and that has not performed material services for Seller, Buyer, or any of their respective Affiliates, during the three (3) year period prior to the selection of the Independent Engineer).

"***Independent Wind Adjustment Engineer***" means [redacted] (or, if such Person is unavailable to provide its services, another nationally recognized engineering firm that is mutually acceptable to Seller and Buyer, that possesses substantial expertise with wind energy projects, and that has not performed material services for Seller, Buyer, or any of their respective Affiliates, during the three (3) year period prior to the selection of the Independent Wind Adjustment Engineer).

"***Initial EPE Report***" is defined in Section 2.11(a).

[redacted]

"***Initial Estimated Produced Energy***" is defined in Section 2.11(a).

"***Initial Turbine Locations***" means the locations of the Turbines set forth on Schedule 4.4(a) as of the Execution Date.

"***Intellectual Property***" means all intellectual property, including: (a) patents, inventions, discoveries, processes, designs, techniques, developments, technology, and related improvements and know-how, whether or not patented or patentable; (b) copyrights and works of authorship in any media, including computer hardware, software, firmware, applications, files, systems, networks, databases and compilations, documentation and related textual works, graphics, advertising, marketing and promotional materials, photographs, artwork, drawings, articles,

textual works, and Internet site content; (c) trademarks, service marks, trade dress, logos, Internet domain names, any and all common law rights thereto, and registrations and applications for registration thereof, all rights therein provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing; and (d) trade secrets and confidential information, including the ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

"***Interconnection***" means the connection of the Project to Transmission Owner's electrical transmission system as coordinated by the Company with the Transmission Owner and Transmission Provider.

"***Interconnection Agreement***" means the Generator Interconnection Agreement entered into by and among Company, Transmission Provider and Transmission Owner with respect to the Interconnection, in the form required by the Transmission Provider and the Transmission Owner.

"***Interconnection Construction Service Agreement***" means a Construction Service Agreement or similar agreement, if any, to be entered into by and among the Company, the Transmission Provider (or other applicable regional transmission organization) and the Transmission Owner (or (i) a transmission owner operating within the Transmission Provider's network, if applicable or (ii) a transmission owner operating outside the Transmission Provider's network, whose system is affected by the Project, if applicable) with respect to the Interconnection, in the form required by the Transmission Provider (or other applicable regional transmission organization) and the applicable transmission owner. For the avoidance of doubt, Interconnection Construction Service Agreement includes any agreement between the Company and the Transmission Provider (or other applicable regional transmission organization) with respect to Network Upgrades.



"***Interconnection Rights***" means any and all of the Company's or Seller's rights and interests in the Project's Interconnection under the Interconnection Agreement and the Interconnection Construction Service Agreement(s), and any subsequent studies, reports or other documents provided by Transmission Provider and/ or Transmission Owner.

"***Interest Rate***" means, for any date, a rate per annum equal to the sum of (i) the "Prime Rate" as published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day, on the most recent preceding day on which published), plus (ii) [redacted].

"***IRS***" means the United States Internal Revenue Service.

"***IRS Notices***" means the guidance published by the IRS under IRS Notice 2013-29, 2013-20 I.R.B. 1085; IRS Notice 2013-60, 2013-44 I.R.B. 431; IRS Notice 2014-46, 2014-36 I.R.B. 520; IRS Notice 2015-25, 2015-13 I.R.B. 814; IRS Notice 2016-31, 2016-23 I.R.B. 1025; IRS Notice 2017-04, 2017-4 I.R.B. 541; IRS Notice 2018-59, 2018-28 I.R.B. 196, IRS Notice 2019-43, 2019-31 I.R.B. 487, IRS Notice 2020-41, 2020-25 I.R.B. 954; IRS Notice 2021-5, 2021-3 I.R.B. 479; IRS Notice 2021-41, 2021-29 I.R.B. 17; and IRS Notice 2022-61, 2022-52 I.R.B. 560 and any subsequent IRS notice or published guidance on or interpretation of the beginning of construction requirements set forth in Sections 45, 45Y, 48 or 48E of the Code, in each case, issued by a Tax Authority.

"***ITC***" means the investment tax credit allowable pursuant to Section 48 of the Code or the clean electricity investment credit allowable pursuant to Section 48E of the Code, or any successor provision.

"***ITC Qualified Facility***" means the portion of the Project that constitutes the "energy project" for purposes of Section 48(a)(9)(A)(ii) of the Code and Treasury Regulations Section 1.48-9(f) or the "qualified facility" for purposes of Section 48E(b)(3) of the Code and Treasury Regulation Section 1.48E-2(b).

"***Known Breach Escrow Amount***" means an amount as determined pursuant to Section 4.3(b).

[redacted]

"***kWac***" means kilowatt measured in alternating current (ac).

"***Labor Agreements***" is defined in Section 5.9.

"***Laborer***" means any individual who is a "laborer" or "mechanic" within the meaning of Treasury Regulations Section 1.45-7(d)(8) or any successor PWA Guidance.

"***Land Contract Estoppels***" means, collectively, the Easement Estoppels and the Landlord Estoppels.

"***Land Contracts***" means (i) all easement agreements, lease agreements, deeds or other agreements granting rights to the Company with respect to the occupancy, use or ownership of any portion of the Site or otherwise necessary for the operation and maintenance of the Project, including all options or agreements for real property interests (including options or agreements to acquire real property in fee, leasehold or easement estates), and any Crossing Agreements, all amendments, supplements and agreements, and memoranda or notices intended to give record notice, in connection therewith, and all easements, leases and licenses in real property, and (ii) all Wind Project Neighbor Easement Agreements covering land located in the Buffer Zone to which the Company is or becomes a party. For the avoidance of doubt, no Road Use Agreement is a Land Contract.

"***Landlord Estoppels***" means the estoppel certificates from the landlords or licensors, as applicable, under those Land Contracts which constitute lease or license agreements in substantially the form attached hereto as Exhibit F.

"***Law***" means any law (including common law), statute, rule, regulation, ordinance, standard, code, order, judgment, binding decision, writ, injunction, notice, ruling, procedure, guidance or decree issued or enforced by any Authority, including any of the foregoing that relate to Tax.

"***Letter of Credit***" means an irrevocable, transferable, standby letter of credit, governed by the International Standby Practices rules, International Chamber of Commerce Pub. 600 and issued by a Creditworthy Bank, in the form attached hereto as Exhibit G.

"***Letter of Credit Default***" means the occurrence of any of the following events in respect of a Letter of Credit:

a) the issuer of the Letter of Credit is no longer a Creditworthy Bank;

b) the issuer of the Letter of Credit disaffirms, disclaims, repudiates, or rejects in whole or in part, or challenges the validity of, such Letter of Credit;

c) the Letter of Credit expires or terminates or ceases to be in full force and effect at any time during the term of this Agreement, and has not been replaced by a new Letter of Credit;

d) any bankruptcy or event analogous to a bankruptcy (i.e. receivership, assignment for the benefit of creditors, etc.) with respect to the issuer of the Letter of Credit;

e) thirty (30) Business Days prior to the expiration or termination date of a Letter of Credit, the Letter of Credit is not extended or replaced with a new Letter of Credit for an amount at least equal to that of the Letter of Credit being replaced;

f) the issuer of the Letter of Credit fails to honor a drawing under the Letter of Credit in accordance with its terms; or

g) the issuer of the Letter of Credit fails to comply with or perform its obligations under the Letter of Credit and the failure continues after the lapse of any applicable grace period;

In all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and external attorneys' fees) of establishing, renewing, substituting, canceling, increasing, and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by Seller.

"***Liabilities***" means any and all direct or indirect liabilities, Indebtedness, obligations, commitments, losses, damages, expenses, claims, deficiencies, or guaranties of any type, whether accrued or unaccrued, asserted or unasserted, fixed absolute or contingent, matured or unmatured, liquidated or unliquidated, incurred, due or to become due, known or unknown, whenever or however arising (including whether arising out of any Contract or tort based on negligence, strict or joint and several liability, or otherwise) and whether or not the same would be required by GAAP to be specifically identified as a liability in financial statements or disclosed in the notes thereto.

"***Lien Waiver***" means a conditional lien waiver in the form of Exhibit I-1 or an unconditional lien waiver in the form of Exhibit I-2, as applicable.

"***Loss***" means any and all judgments, losses, Liabilities, amounts paid in settlement, damages, fines, monetary penalties, costs, charges and Taxes, lost capacity [redacted], lost RECs [redacted], Lost ITCs / Tax Benefits, fees, interest and expenses (including court costs and reasonable fees of attorneys, accountants and other experts in connection with any third-party claim).

"***Lost ITCs / Tax Benefits***" means any ITCs or other tax benefits the Company would have been entitled to but for a breach of Seller's representations in Section 6.20 (Tax Matters) or Section 6.21 (Tax Credit Qualification) or any breach of Seller's obligations under Section 4.22 (PWA Requirements) or Section 10.14 (PWA Compliance). [redacted]

"***Made Available***" means the respective materials were posted to and remain in the Electronic Data Room in unredacted form as of the Closing Date, including all exhibits, schedules, appendices and other attachments thereto, except, solely with respect to the period prior to the Closing Date, for redactions permitted pursuant to the terms of this Agreement.

"***Major Project Document Estoppels***" means those estoppel certificates from the counterparties to each of the Major Project Documents (other than the Interconnection Agreement or any Interconnection Construction Services Agreement), in substantially the form attached hereto as Exhibit H-1 and Exhibit H-2, as applicable.

"***Major Project Documents***" means [redacted]

"***Material Adverse Effect***" means [redacted]

"***Material Contracts***" is defined in Section 6.13(a).

"***MC Delay Liquidated Damages***" is defined in Section 4.16(a).

"***MC Punch List***" means the list of MC Punch List Items. If the Parties are unable to agree upon whether an item should be included in the MC Punch List, the Independent Engineer shall make such determination.

"***MC Punch List Items***" means each item of Work that, as of the Mechanical Completion Date, remains to be completed in order to achieve Substantial Completion or Final Completion.

"***Mechanical Completion***" is defined in Exhibit O. For the avoidance of doubt, Mechanical Completion cannot be achieved unless (i) the Project includes at least the Minimum Turbines, and (ii) Turbine Mechanical Completion has been achieved with respect to all of the Turbines included in the Project.

"***Mechanical Completion Certificate***" means a certificate in the form attached hereto as Exhibit O-1 issued by Seller certifying as to the satisfaction or achievement of Mechanical Completion and attaching copies of each "Mechanical Completion Certificate" (as such term is defined in the EPC Contract) issued by the EPC Contractors.

"***Mechanical Completion Date***" means the date on which the Project shall have achieved Mechanical Completion and the Mechanical Completion Certificate with respect thereto shall have been accepted by (or pursuant to this Agreement is deemed accepted by) Buyer in accordance with Exhibit O.

"***Membership Interest Assignment***" is defined in Section 8.1(a)(i).

"***Minimum Turbines***" means [redacted].

"***Mobilization Date***" means the date on which the EPC Contractor commences any of the following activities at the Site: (i) any construction preparation Work or (ii) any mobilization of its materials, equipment and / or personnel.

"***Monthly Progress Report***" is defined in Section 4.2(a).

"***Moody's***" means Moody's Investors Service, Inc., or a successor (if any).

[redacted]

"***Mutual Firm Date CPs***" is defined in Section 3.4.

"***MW***" means megawatt measured in alternating current (ac).

"***Neighbor Easement Agreement Budget***" means Seller's budget for costs and expenses to be incurred in connection with acquiring the Wind Project Neighbor Easement Agreements pursuant to Section 4.10, in accordance with the Neighbor Easement Agreement Plan, including the reasonable costs of any surveying or title work necessary to determine the applicable lands and/or appropriate signatories, as mutually agreed by Buyer and Seller in writing.

"***Neighbor Easement Agreement Plan***" means Seller's plan for acquiring the Wind Project Neighbor Easement Agreements pursuant to Section 4.10, as mutually agreed by Buyer and Seller in writing on or before the Firm Date.

"***Network Upgrades***" means the Network Upgrades required to be paid for by the Company in connection with the Interconnection that are described in Section 3 of the Interconnection

Agreement, Appendix 1 to any Construction Service Agreement, and any equivalent agreement in an affected system.

"***Non-Discretionary Permits***" means a Permit that is issued by an Authority without the exercise of judgment or deliberation other than determining whether the applicant has provided a complete application and necessary fee required for issuance of such Permit.

"***O&M Building***" means the building used in the performance of operations and maintenance services for the Project and meeting the specifications therefor in Exhibit M to be located on property owned in fee by the Company.

"***O&M Building Substantial Completion***" shall have occurred when the O&M Building is sufficiently complete in accordance with the requirements of this Agreement (including the Scope of Work and Specifications) so that Buyer can occupy and utilize the O&M Building for its intended use and all of the following have been completed in accordance with the requirements of this Agreement (including the Scope of Work and Specifications):

(a) the final certificate of occupancy for the O&M Building has been obtained;

(b) the only remaining items of Work to be completed on the O&M Building are "punch list" items that can be completed within a [redacted] period without material interference with Buyer's occupancy and use of the O&M Building, and Seller shall have submitted to Buyer the punch list with respect to the O&M Building;

(c) the O&M Building has been left in clean condition, all boxes, crates, waste, trash, etc. have been hauled off and away from the O&M Building site at Seller's expense, all glass has been thoroughly washed and cleaned, all broken glass has been replaced, all hardware and fixtures have been cleaned, all paint stains, spots, smears, marks and dirt have been removed from all surfaces, and all floors and all exposed concrete have been washed; and

(d) all roads providing access to the O&M Building and the parking area for the O&M Building shall be completed, and all utilities shall be connected and fully functional.

"***O&M Building Substantial Completion Date***" means the date on which O&M Building Substantial Completion has occurred.

[redacted]

[redacted]

"***Order***" means any settlement, stipulation, order, writ, judgment, injunction, decree, ruling, determination or award of any Authority.

"***Ordinary Course of Business***" means an action taken by a Person that is consistent in nature, scope, and magnitude with the past practices of such Person and is taken in the ordinary course of the normal, day-to-day operations of such Person.

"***Outside Date***" means [redacted], which date may be extended by Seller Excusable Events solely to the extent provided in Section 4.12 or 4.21, but in no event shall the Outside Date be extended beyond the Drop Dead Date.

"***PAC Rejection Notice***" is defined in Section 4.4(k)(iii)(A).

[redacted]

"***Party***" means Buyer or Seller individually; and "***Parties***" means Buyer and Seller collectively.

"***Payoff Amount***" means the sum set forth in the Financing Parties' Payoff Letter as the "Payoff Amount".

"***Payoff Letter***" is defined in Section 8.1(j).

"***Permit***" means (a) any license, consent, certificate (including permanent unconditional certificate of occupancy), approval, permit, authorization, determination, concurrence, franchise and similar written consents and Orders of any sort whatsoever by or from any Authority, for (i) the design, development, engineering, procuring, construction, installation, testing, commissioning, ownership, maintenance, or operation of the Project, (ii) the transfer of the Purchased Interests to Buyer, or (iii) with respect to any Permits held by the Company in connection with the Project as of the Closing Date, the assignment or transfer of such Permits by the Company to Buyer as the result of the consummation of an Assets Distribution to Buyer or Merger, and (b) any required notice to, or declaration, filing, or registration with, any Authority, in each case in connection with the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project, or the transfer of the Purchased Interests to Buyer. Permit does not include Buyer Permits.

"***Permit Application***" means any application, petition or written request made by the Company, Seller or any other of its Affiliates to any Authority on or before the Closing Date in order to obtain a Permit.

"***Permitted Encumbrances***" means, collectively: (a) inchoate statutory-created Encumbrances for current property taxes not yet delinquent or being contested in good faith by appropriate procedures and for which an appropriate reserve has been established therefor in the Financial Statements in accordance with GAAP; (b) Encumbrances granted to the Financing Parties under the Financing in respect of the development or construction of the Project (so long

as such Encumbrances are fully released at or prior to the Closing); (c) the Schedule B Exceptions; (d) any other Encumbrance created by an act or omission of Buyer or approved in writing by Buyer; (e) Encumbrances deemed to be "Permitted Encumbrances" pursuant to Section 4.6(d), Section 4.6(e) or Section 10.5(b); (f) Encumbrances contained on Updated Title Reports and Updated Survey Sheet(s) to the extent approved or deemed approved by Buyer as provided in Section 4.6(c)(iii) and Section 4.6(d); (g) Encumbrances affirmatively insured against under the terms of the Title Policy in a manner reasonably acceptable to Buyer, (h) Encumbrances consisting of mortgages or similar instruments, manure easements or tenant leases affecting an interest in land superior to the interest of the Company in the Land Contracts, but only if such Encumbrance is the subject of a Subordination Agreement or non-disturbance agreement reasonably satisfactory in substance and form to Buyer, other than any Encumbrance consisting of mortgages or similar instruments affecting any Real Property to which Company owns fee title which shall not be a Permitted Encumbrance except as set forth in (b) above; (i) Encumbrances consisting of specific oil and gas leases, mineral reservations, mineral servitudes and other mineral interests to the extent the foregoing are affirmatively insured against under the terms of the Title Policy; (j) mechanics', carriers', workmen's, repairer's or other like liens arising or incurred in the ordinary course of business that are not yet due and payable or are being contested in good faith by appropriate procedures and (1) for which an appropriate reserve has been established therefor in the Financial Statements in accordance with GAAP and (2) to the extent a lien has been filed therefor, over which a bond has been posted reasonably acceptable to Buyer (without, however, limiting Seller's obligation to deliver at Closing a Title Policy that modifies, to Buyer's reasonable satisfaction, any exception pertaining to mechanics' or materialmen's liens to be limited to those liens which have been or may be filed arising out of work performed or materials furnished to or for the benefit of Seller on the Real Property or any portion thereof); provided that, for each of (c)-(i), limited to the extent that such item is (1) recorded in the public record or otherwise disclosed to Buyer in writing, and (2) does not individually or collectively with the other Permitted Encumbrances materially and adversely impact the use, possession or value of the Asset to which such Encumbrance is attached in the Project; provided, further that any Encumbrances consisting of mortgages or similar instruments affecting any Real Property to which the Company owns fee title shall not be a Permitted Encumbrance except as set forth in (b) above; and (k) any Encumbrances or Schedule B Exceptions that are subordinate or lack recording priority over Land Contracts for which the Title Company issues a statement of affirmative coverage.

"***Person***" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, decedent's estate, organization, entity, or unincorporated organization or any Authority.

"***Placed in Service***" means, with respect to the Project, that (i) for the purposes of Sections 6.20(e) and (o), (a) the Project has obtained the necessary permits and licenses for operation; (b) critical preoperational testing has been completed for the generation of electric energy for sale to customers; (c) the Company has custody and control of the Project; (d) the Project is synchronized into a transmission power grid; and (e) the Project routinely supplies power to the transmission power grid for sale to customers and (ii) for all other purposes as used in this Agreement, that the Project has been "placed in service" within the meaning of Treasury Regulations Section 1.48-9(b)(5) and Treasury Regulation Section 1.48E-2(b)(2)(i).

"***Point of Interconnection***" shall have the meaning set forth in the Interconnection Agreement.

"***Post-Closing Adjustment***" is defined in Section 2.6(a).

"***Post-Closing Date Purchase Price Adjustment***" means an amount equal any adjustment to the Purchase Price that Seller is entitled to as of the Substantial Completion Payment Date pursuant to Section 2.9 or Section 2.13 that was not included in the Purchase Price determined on the Closing Date and used in the calculation of the Closing Payment.

[redacted]

"***Post-Closing Proration Amount***" is defined in Section 2.5(b).

[redacted]

"***Post-Closing Statement***" is defined in Section 2.6(a).

[redacted]

"***Pre-Closing Tax Period***" means any taxable period ending on or before the Closing Date and the portion through the end of the Closing Date for any Straddle Period.

[redacted]

"***Preliminary Survey***" means the pre-construction Survey that (i) comports with the Preliminary Title Report by including the same legal description of the Real Property as set forth in the Preliminary Title Report and the same list (including as to order of same) of Encumbrances as set forth in the Preliminary Title Report, (ii) with respect to each such listed Encumbrance, states whether such Encumbrance is blanket, plotted (and if so, identifies such Encumbrance in a manner consistent with the Preliminary Title Report and shows the boundaries of same), or not plottable (and if so, the reason the same is not plottable); and, by way of clarification, does not include references to any Encumbrance that "does not affect" the Real Property, (iii) lists on each sheet of the Survey, the Encumbrances that affect the portion of the Real Property depicted on such Survey sheet, (iv) includes a complete legend on every sheet of the Survey setting forth each and every symbol, formatted or stylized line or mark, abbreviation or other identifying information shown on the depiction of the Real Property in the Survey, and (v) includes identifying labels on all public roads and rights-of-way, applicable setback requirements, if any (as required by the county or the Land Contracts), improvements, structures, Facilities, including access roads, shown

on the depiction of the Real Property in the Survey, and, by way of clarification, does not include any item or mark on the depiction of the Real Property that is not so identified or included in the legend on the Survey.

"***Preliminary Title Report***" means a combined Title Report for all of the Real Property that (i) comports with the Preliminary Survey by including the same legal description and, if applicable, metes and bounds description, of the Real Property as set forth in the Preliminary Survey and the same list (including as to order of same) of Encumbrances as set forth in the Preliminary Survey and does not include any Encumbrances that do not affect the Real Property, (ii) lists Encumbrances organized by identifiable tract or parcel of Real Property subject to each Land Contract, which tract or parcel references generally comport with the tract or parcel references of the portion of the Real Property described in each such Land Contract, acknowledging that certain parcel references may have changed from the original description in the Land Contract (for example, parcel splits or combinations resulting in new parcel designations) and the ordering of tracts on the combined Title Report may not exactly align with the ordering of tracts on the relevant Land Contract, and (iii) with respect to any mortgage, deed of trust, security interest, mineral reservation, lien or other Encumbrance listed for which a curative item is needed in order for the Title Company to issue the Title Policy in accordance with Section 8.1(h)(i), identification of such curative item, such as, for example, Subordination Agreements, non-disturbance agreements, and Crossing Agreements.

[redacted]

"***Prevailing Wage Requirement***" means the requirements, other than the Apprenticeship Requirements, under the definition of PWA Requirements.

"***Progress Report***" is defined in Section 4.2(a).

"***Project***" is defined in Recital B.

"***Project Document Credit Support Obligations***" means any and all obligations relating to deposits, guaranties, letters of credit, bonds, indemnities, or other credit assurances of a comparable nature (including cash posted as credit support) made or issued by or on behalf of Seller or any of its Affiliates solely for the benefit of Company and which are intended to remain in effect after the Closing Date and listed on Schedule 6.33.

"***Project Insurance Policies***" is defined in Section 6.18.

"***Project Insurance Requirements***" means the insurance requirements set forth on Schedule 4.14.

"***Property***" means (i) the real property owned in fee by the Company, and (ii) the real property interests held by Company under the Land Contracts.

"***Property Agreements***" means collectively the Land Contracts, Subordination Agreements and Crossing Agreements.

"***Provisionally-Approved EPC Contractors***" means: [redacted]

"***Prudent Industry Practices***" means those practices, methods, standards and acts that, in accordance with the degree of judgment and skill that is ordinarily possessed and exercised by (and generally accepted as being appropriate for) nationally recognized engineering, procurement and construction professionals or other applicable professionals (as applicable for the situation in which Prudent Industry Practices is required) of good standing (including those engaged in or approved by a significant portion of the public utility wind generation industry for similar utility-owned wind electric generation facilities in similar locations in the United States) at a particular time in the exercise of good judgment and in light of the facts known at the time the decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable Laws, equipment manufacturer recommendations, safety, environmental protection, economy and expedition. Prudent Industry Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of action reasonable under the circumstances.

"***PTC***" means the production tax credit under Section 45 or the clean energy production tax credit under Section 45Y of the Code, as applicable, for electricity generated by a wind facility.

"***Purchase Price***" means an amount equal to the sum of the Base Purchase Price, *plus* or *minus*, as applicable, the amounts determined in accordance with [redacted]; *provided however*, that for the avoidance of doubt, (a) the Purchase Price shall not be adjusted for any amendments [redacted] unless and until such time as the Parties have executed such amendments, and (b) there shall be no duplication of adjustments to the Base Purchase Price or other remedies under any such Section of this Agreement. For the avoidance of doubt, (i) the amounts determined in accordance with [redacted]

[redacted]. For the avoidance of doubt, Seller shall be responsible for the cost of compliance with the Turbine Freewheeling and Maintenance Requirements and the Purchase Price shall not be adjusted with respect to the cost of requiring the Turbine Supplier or the EPC Contractor to comply with the Turbine Freewheeling and Maintenance Requirements or amounts charged by the Turbine Supplier or the EPC Contactor to include the provisions required by Section 3.2(k) in the Turbine Supply Agreement or EPC Contract, respectively, or to comply with the same, [redacted]. No adjustment to the Purchase Price shall be duplicative of any other adjustment to the Purchase Price.

"***Purchase Price Allocation Schedule***" is defined in Section 2.7.

[redacted]

"***Purchased Interests***" is defined in Recital A.

"***PWA Consultant***" means [redacted]

"***PWA Contractor***" means any "contractor" (within the meaning of Treasury Regulation Section 1.45-7(d)(4), as such meaning may be amended by any PWA Guidance) engaged by Seller or the Company that employs any other Person to perform a portion of the CAR Work.

"***PWA Cure Liability***" means:

(a) any amounts (including interest) payable to any Laborer pursuant to the PWA Guidance and Code Sections 48(a)(10)(B) or 48(a)(11) (including amounts payable under rules similar to the rules of such Code sections that are payable pursuant to Code Sections 48E(d)(3) and 48E(d)(4));

(b) any amounts (including interest and penalties) payable to the Secretary of the Treasury, the IRS, or any other Authority pursuant to the PWA Guidance and Code Sections 48(a)(10)(B) or 48(a)(11) (including amounts payable under rules similar to the rules of such Code sections that are payable pursuant to Code Sections 48E(d)(3) and 48E(d)(4)); and

(c) any costs or expenses incurred (including, for clarity, by Buyer) in connection with (i) identifying the applicable Laborers described in clause (a), and (ii) paying and reporting the amounts described in clauses (a) and (b),

in each case, as necessary to cure any failure of Seller or any PWA Subcontractor to satisfy the PWA Requirements in accordance with applicable PWA Guidance.

"***PWA Guidance***" means (i) the final Treasury Regulations released in Treasury Decision 9998 (89 Fed. Reg. 53184), and (ii) any guidance or any proposed, temporary or final regulations

issued by the U.S. Department of the Treasury, the IRS, the DOL or any other applicable Authority interpreting or impacting the requirements under Code Sections 48(a)(10), 48(a)(11), 48E(d)(3) and 48E(d)(4), as applicable.

"***PWA Holdback Amount***" means an amount equal to [redacted]

"***PWA Outside Date***" means [redacted]

"***PWA Requirements***" means with respect to any ITC Qualified Facility, the requirements under Code Sections 48(a)(10) and 48(a)(11) (and Code Sections 48E(d)(3) and 48E(d)(4)) and any PWA Guidance that must be satisfied with respect to the CAR Work to allow the Project to satisfy the requirements of Sections 48(a)(9)(B)(iii) or 48E(a)(2)(B)(ii)(III) of the Code, as applicable.

"***PWA Site***" means the Site or any other location considered a site of the work for purposes of the PWA Guidance, including any "locality" of the facility within the meaning of Treasury Regulation Section 1.45-7(d)(7) (as such meaning may be amended by any PWA Guidance).

"***PWA Subcontractor***" means any "subcontractor" (within the meaning of Treasury Regulation Section 1.45-7(d)(9), as such meaning may be amended by any PWA Guidance), of any tier, any Contractor or any Subcontractor. For the avoidance of doubt, PWA Subcontractors do not include the PWA Contractor.

[redacted]

"***Real Property***" means the Property, the Facilities (to the extent the same are deemed to be real property by the law of the jurisdiction in which such Facilities are located), and any other real property interests and rights necessary for the development, construction, installation, interconnection, ownership, operation and maintenance of the Project.

"***RECs***" means any credits, credit certificates, green tags, allowances, offsets, entitlements or similar environmental or green energy attributes (such as those for greenhouse reduction or the generation of green power or renewable energy) created by an Authority or independent certification board or group generally recognized in the electric power generation industry, and generated by or associated with the Project or electricity produced therefrom.

"***Release***" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, depositing, injecting, escaping, leaching, dumping, migrating or disposing into the environment.

[redacted]

"***Removed Turbines***" is defined in Section 2.3.

"***Reports***" is defined in Section 6.19.

"***Representative***" means, with respect to any Person, any officer, director, employee, principal, attorney-in-fact, agent, professional advisor, consultant or other representative of such Person.

"***Required Commission Approvals***" means the Buyer Commission Approvals from the Virginia State Corporation Commission; provided, that if (i) the Buyer Commission Approvals from the Virginia State Corporation Commission are not obtained by Buyer before the Firm Date, and (ii) Buyer elects in its sole discretion to waive the requirement of obtaining the Buyer Commission Approvals from the Virginia State Corporation Commission and to proceed with acquiring the Company pursuant to this Agreement with the Buyer Commission Approvals from the West Virginia Public Service Commission, the term Required Commission Approvals shall mean the Buyer Commission Approvals from the West Virginia Public Service Commission, and shall not include the Buyer Commission Approvals from the Virginia State Corporation Commission.

"***Required Credit Support***" is defined in Section 5.6(d).

"***Required FERC Approvals***" means an Order or Orders issued by FERC accepting the Interconnection Agreement and/or the Interconnection Construction Service Agreement(s); provided, however, that if the Transmission Provider has determined that either such agreement is not required to be filed with FERC pursuant to 18 C.F.R. §35.1(g), then a FERC Order for such agreement shall no longer be considered a Required FERC Approval.

"***Required Neighbor Easement Landowners***" means the owners of real property located in the vicinity of the Site from whom Seller shall use commercially reasonable efforts to seek Wind Project Neighbor Easement Agreements in accordance with Section 4.10, which landowners shall be identified in the Neighbor Easement Agreement Plan.

"***Required Project Warranty***" means the project warranties set forth in (i) Exhibits C, J, and FF with respect to the EPC Contract, the Turbine Supply Agreement and the Breaker Supply Agreement, respectively, or (ii) with respect to any other Major Project Document (excluding the Transformer Supply Agreement, the Interconnection Agreement and the Interconnection Construction Service Agreement(s)) for the procurement of any components, customary warranty terms and conditions for such type of component as may be approved by Buyer, such approval not to be unreasonably withheld, conditioned or delayed.

"***Road Use Agreement(s)***" means the agreement(s) to be entered into by the Company with one or more of [redacted]

[redacted] authorizing the Company to use public roads to transport heavy equipment and materials, to make temporary and permanent improvements to the public roads, to install and maintain certain electrical equipment across and under the public roads, and to install and maintain access road entrances to the public roads for purposes of constructing, owning, maintaining and operating the Project.

[redacted]

"***S&P***" means Standard & Poor's Global Ratings Group, or a successor (if any).

"***SC Delay Liquidated Damages***" is defined in Section 4.16(b).

"***Schedule B Exceptions***" means the exceptions to title as noted in the Title Reports and/or Updated Title Reports, to the extent approved or deemed approved by Buyer as provided in Section 4.6(d) and that are not otherwise excluded from the scope of Permitted Encumbrances pursuant to the definition of the same or any other express provision of this Agreement.

"***Schedules***" means all schedules expressly contemplated in this Agreement, including those to be delivered as of the Execution Date.

"***Scope of Work and Specifications***" means the Scope of Work and Specifications set forth in Exhibit M.

"***SC Punch List***" means the list of SC Punch List Items. If the Parties are unable to agree upon whether an item should be included in the SC Punch List, the Independent Engineer shall make such determination.

"***SC Punch List Holdback Amount***" means [redacted] of the amount sufficient to pay the costs of completing the SC Punch List, as agreed by the Parties, or, if the Parties are unable to agree upon such amount, as determined by the Independent Engineer, which amount, in any event, shall not be less than the sum of all amounts owed to the counterparties to the Major Project Documents but that remain unpaid as of the Substantial Completion Payment Date, as reasonably agreed to by the Parties.

"***SC Punch List Holdback Release***" means with respect to any SC Punch List Item that has been completed, an amount in dollars equal to the portion of the SC Punch List Holdback Amount applicable to such SC Punch List Item, less any amount paid by Buyer or the Company to the applicable Contractor with respect to such SC Punch List Item pursuant to the applicable Major Project Document. For the avoidance of doubt, the SC Punch List Holdback Release for a completed SC Punch List Item shall be equal to [redacted] of the amount withheld to pay the costs of completing such SC Punch List Item.

"***SC Punch List Items***" means each item of Work that (a) Seller or Buyer identifies as requiring completion or containing defects that is associated with, and were intended to have been completed in connection with Substantial Completion, (b) does not preclude the Facilities or any portion thereof from operating or functioning, (c) does not affect the operability or mechanical or electrical integrity of the Facilities and (d) does not create a safety risk for any Person to the extent such items have not been completed as of the Substantial Completion Payment Date.

[redacted]

"***Seller***" is defined in the introductory paragraph of this Agreement.

"***Seller Approvals***" is defined in Section 3.4(m).

"***Seller Approvals Notice***" is defined in Section 3.5(b).

"***Seller Disapproval Notice***" is defined in Section 3.5(c).

"***Seller Confidential Information***" is defined in Section 10.3(a).

"***Seller Consents***" is defined in Section 6.4.

"***Seller Excusable Event***" means a Force Majeure, [redacted]; provided that, (i) solely for purposes of the definition of Outside Date, Seller Excusable Events shall also include any extension pursuant to Section 3.7 and any Buyer-Caused Delay, and (ii) solely for purposes of the definitions of Guaranteed Mechanical Completion Date and Guaranteed Substantial Completion Date, Seller Excusable Events shall also include any extension pursuant to any Buyer-Caused Delay. For the avoidance of doubt, extensions of time for Seller Excusable Events shall be permitted solely to the extent provided in Section 4.12 or Section 4.21, and Seller shall not be entitled to claim duplicative extensions or delays for any Seller Excusable Event (or otherwise) under this Agreement.

"***Seller Excusable Event Notice***" is defined in Section 4.12(e)(i).

"***Seller Firm Date CPs***" is defined in Section 3.3.

"***Seller French Parent***" means [redacted].

"***Seller French Parent Guaranty***" means that guaranty from Seller French Parent that is being executed and delivered on the Closing Date [redacted].

"***Seller Indemnified Parties***" is defined in Section 11.2(b).

"***Seller Indemnifying Party***" is defined in Section 11.2(a).

"***Seller Mechanical Completion PWA Compliance Certificate***" means a Seller Mechanical Completion PWA Compliance Certificate substantially in the form of Exhibit CC-3.

"***Seller Parent***" means (i) with respect to the Seller French Parent Guaranty, the Seller French Parent, and (ii) with respect to the Seller US Parent Guaranty, the Seller US Parent.

"***Seller Parent Guaranties***" means the Seller French Parent Guaranty and the Seller US Parent Guaranty.

"***Seller Parent Guaranty*** means the Seller French Parent Guaranty or the Seller US Parent Guaranty, as applicable.

"***Seller Parent Guaranty Default***" means, from and after the date on which Seller is required to provide a Seller Parent Guaranty to satisfy its obligations under Section 5.6, the occurrence of any of the following events in respect of such Seller Parent Guaranty during the period that Seller is required to maintain such Seller Parent Guaranty:

a) the Seller Parent does not satisfy the conditions set forth in such definition;

b) the Seller Parent disaffirms, disclaims, repudiates, or rejects in whole or in part, or challenges the validity of, such Seller Parent Guaranty;

c) the Seller Parent Guaranty expires or terminates or ceases to be in full force and effect at any time Seller is required to maintain the Seller Parent Guaranty pursuant to Section 5.6(e), and such Seller Parent Guaranty has not been replaced by a Letter of Credit in an amount equal to the cap on the Seller Parent Guaranty;

d) any bankruptcy or event analogous to a bankruptcy (i.e. receivership, assignment for the benefit of creditors, etc.) with respect to the Seller Parent;

e) [redacted] prior to the expiration or termination date of the Seller Parent Guaranty, if any, such Seller Parent Guaranty is not extended or replaced with a new Seller Parent Guaranty or a Letter of Credit for an amount at least equal to that of the Seller Parent Guaranty being replaced;

f) the Seller Parent fails to honor a drawing under the Seller Parent Guaranty in accordance with its terms;

g) Seller fails to provide to Buyer the unaudited balance sheet and related statements of operations, shareholder's equity and cash follows as of the end of each fiscal

year of Seller Parent [redacted] after the end of such fiscal year, in each case prepared in accordance with IFRS, which failure is not cured within [redacted] after written notice from Buyer; or

h) the Seller Parent fails to comply with or perform its obligations under the Seller Parent Guaranty and the failure continues after the lapse of any applicable grace period.

In all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and external attorneys' fees) of establishing, renewing, substituting, canceling, increasing, and reducing the amount of (as the case may be) one or more Seller Parent Guaranties shall be borne by Seller.

"***Seller PWA Compliance Certificate***" means a Seller PWA Compliance Certificate substantially in the form of Exhibit CC-2.

"***Seller Responsibility Firm Date Conditions***" means each of the Firm Date Conditions set forth in the following Sections: 3.2 (other than clauses (j), (m), (n), (o) and (q) thereof), 3.3(b), 3.3(d), 3.4(a), 3.4(b), 3.4(d), 3.4(f), 3.4(h) (solely with respect to Seller Consents), 3.4(j), 3.4(k), 3.4(l), 3.4(m), 3.4(o), 3.4(p), and 3.4(q).

"***Seller US Parent***" means [redacted].

"***Seller US Parent Guaranty***" means that guaranty from Seller US Parent that is being executed and delivered on the Execution Date, the Firm Date or the Closing, as applicable, in the form attached hereto as Exhibit N-2.

"***Seller's Fundamental Representations***" means the representations and warranties contained in [redacted]

"***Seller's Knowledge***" means the actual knowledge of any of the individuals listed on Schedule 1.1(d) after reasonable inquiry by such individuals of those employees of Seller who are responsible for the subject matter of the representation and warranty or other matter involved and which shall be deemed to include knowledge of the information and materials Made Available.

"***Settlement Agreement***" is defined in Section 13.4(b).

[redacted]

[redacted].

"***Site***" means the site in Livingston County, Illinois, on which the Project (including the Facilities (including the gen-tie line from the Project substation to the Point of Interconnection and

the land covered by the Land Contracts therefor)) will be constructed, which site shall be within the geographic boundaries of the Project.

"***Site Finalization Date***" means the date that each of the requirements and conditions set forth in Sections 3.2, 3.3, 3.4, 4.6(a), and 4.6(c), have been satisfied by the applicable responsible Party, except for any such requirements and conditions that have been expressly waived, in writing, by the Party permitted to waive such requirements or conditions.

"***Site Operating Plan***" means a document or set of documents setting forth the requirements for Buyer or the Company to operate and maintain the Project, including a physical description of the Project including drawings and pictures; a complete list of each EPC Contractor's supplier contacts; final as-built electrical and structural drawings, commissioning test reports required to comply with this Agreement and all applicable Laws; equipment serial numbers; equipment warranty information; equipment tagging, location and identification; operation, maintenance and safety policies and procedures for the Project and any PPE requirements; instructions for startup, shutdown, operation and maintenance of all material equipment and components included in the Project; 'ArcFlash' analysis and stickers; and a complete bill of materials for the power & control building.

"***Site Plan***" means that certain site plan layout for the Project delivered by Seller as provided in Section 4.4(a), including the intended location of each of the Facilities, the intended location of the Turbines, permanent meteorological towers, gen-tie lines, whether overhead or underground, including all related facilities, such as guy wires, access roads, interior roads, electrical collector system, substation (collector, interconnection or any other substation), point of interconnection, communication lines, fences, detention basins, and set-backs from roads and other structures, any surrounding buildings or vegetation that could affect wind resources, the location of areas subject to Crossing Agreements, the boundaries of each tract or parcel of Property subject to each Land Contract, and which such layout shall overlay the Site and show the location of the Property, existing roads, buildings, other structures, all wetlands (if any), and areas of concern (if any) as identified in the then current Phase I environmental site assessment for the Project. The Site Plan shall also show the location of the Buffer Zone and the boundaries of each tract or parcel of Property subject to a Wind Project Neighbor Easement Agreement.

"***Special Use Permit***" means the special use permit for the Project issued by the Livingston County Board of Livingston County, Illinois.

"***Stand-Alone Network Upgrades***" means the facilities identified as "Stand-Alone Network Upgrades" in the Interconnection Agreement and the Interconnection Construction Service Agreement(s).

"***Straddle Period***" means any Tax period that begins on or before the Closing Date and ends after the Closing Date.

"***Subcontractor***" means any vendor, supplier, consultant, or subcontractor, of any tier, materialman, professional, laborer or other Person providing materials, equipment or services, directly or indirectly, to any Contractor in connection with the performance of the Work.

"***Subcontractor PWA Compliance Certificate***" means a Subcontractor PWA Compliance Certificate substantially in the form of Exhibit CC-4.

"***Subject Project Document***" has the meaning defined in Section 4.4(e).

"***Subordination Agreements***" means written agreements provided by the holder of each monetary lien that (without such Subordination Agreement) would have priority in interest in any portion of the real property that is subject to a Land Contract, which Subordination Agreement shall either subordinate the rights of such lien holder to the rights of Company under the applicable Land Contract, or in which Subordination Agreement the holder of each such monetary lien agrees not to disturb Company's occupancy or name Company in a foreclosure procedure, which Subordination Agreements shall be in substance and form reasonable satisfactory to Buyer.

"***Subsidiary***" means, with respect to any Person of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons will be deemed to have a majority ownership interest in a limited liability company, partnership or association, or other business entity if such Person or Persons will be allocated a majority of limited liability company, partnership or association or other business entity gains or losses or will be or control any managing member or general partner of such limited liability company, partnership, association or other business entity.

"***Substantial Completion***" is defined in Exhibit O. For the avoidance of doubt, Substantial Completion cannot be achieved until Turbine Substantial Completion has been achieved with respect to all of the Turbines included in the Project.

"***Substantial Completion Certificate***" means a certificate in the form attached hereto as Exhibit O-1 issued by Seller, certifying as to the satisfaction or achievement of Substantial Completion and attaching copies of each "Substantial Completion Certificate" (as such term is defined in the EPC Contract) issued by the EPC Contractors.

"***Substantial Completion Date***" means the date on which the Project shall have achieved Substantial Completion and the Substantial Completion Certificate with respect thereto shall have been accepted by (or pursuant to this Agreement is deemed accepted by) Buyer in accordance with Exhibit O.

"***Substantial Completion Payment***" means the following amount in dollars, which will not, in any event, be less than zero dollars:

(a) [redacted] the Purchase Price as determined on the Closing Date (excluding any adjustment with respect to Section 2.13),

(b) plus the Post-Closing Date Purchase Price Adjustment, if any;

(c) minus the sum of

(i) the SC Punch List Holdback Amount, plus

(ii) the unpaid SC Delay Liquidated Damages, if any, plus

(iii) any Known Breach Escrow Amount relating to a claim that has not been resolved as of the Substantial Completion Payment Date, plus

(iv) the PWA Holdback Amount.

"***Substantial Completion Payment Date***" means the date on which the following conditions precedent have been satisfied or waived by Buyer:

(a) Covenants of Seller. Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller at or before the Substantial Completion Payment Date; and Seller shall have delivered to Buyer a certificate executed by an officer of Seller, certifying as to the foregoing.

(b) Company Permits. Seller shall have, or caused the Company to have, obtained all of the Substantial Completion Permits, and all such Substantial Completion Permits shall have either been obtained in the name of the Company or validly assigned to the Company in each case in accordance with applicable Laws, and all such Substantial Completion Permits shall be final, nonappealable and in full force and effect.

(c) Substantial Completion. The Substantial Completion Date shall have occurred.

(d) Required Credit Support. The Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall not have occurred and be continuing a Seller Parent Guaranty Default.

(e) Lien Waivers. Seller shall have delivered to Buyer conditional and unconditional Lien Waivers from the counterparties to the Major Project Documents with respect to all Work performed and materials delivered thereunder that have been invoiced to the Company on or prior to the Substantial Completion Payment Date.

(f) SC Punch List. Seller shall have delivered to Buyer, and Buyer shall have approved, the SC Punch List, such approval not to be unreasonably withheld.

"***Substantial Completion Permits***" is defined in Section 6.14(a).

[redacted]

"***Survey***" means an ALTA survey of the Real Property prepared by Westwood Professional Services, Inc. or another surveyor reasonably acceptable to Buyer licensed in the state in which the Real Property is located, prepared in accordance with 2021 ALTA/NSPS minimum standard detail requirements, including, as applicable, Table A items 1, 3, 4, 6(b), 7(a), 8, 11(a)(b), 13, 16,

17, 18, and 19 [redacted], in form and substance reasonably satisfactory to Buyer, that is certified to Buyer, Company and Title Company and that includes and plots to the extent possible the location of all matters set forth in the Title Reports and the Updated Title Reports, as the case may be (and in the As-Built Survey, all Permitted Encumbrances to the extent such Permitted Encumbrances are plottable) and all matters identified on the Site Plan (and in the As-Built Survey delivered at Closing pursuant to Section 8.1(h)(ii), all as-built improvements and Facilities, whether above ground or underground).

"***Target Backfeed Date***" means [redacted].

"***Tax Authority***" means the IRS and any other domestic or foreign Authority responsible for the imposition and/or administration of any Taxes.

"***Tax Contests***" is defined in Section 10.4(a).

"***Tax Return***" means any report, form, claim for refund, return, declaration, statement or other information (including any amendments) required to be supplied to any Tax Authority with respect to Taxes, including information returns, any amendments thereof or schedule or attachment thereto, including any such document prepared on a consolidated, combined or unitary basis and also including any Schedule or attachment thereto, and including any amendment thereof.

"***Taxes***" means all federal, state, local, foreign and other net income, gross income, estimated, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, levied and pending assessments, escheat, unclaimed property, windfall profits, value added, customs duties, capital gain, social security, royalty, documentary or other taxes, fees, assessments, duties or charges of any kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and the term "Tax" means any one of the foregoing Taxes.

"***Technical Dispute***" is defined in Section 13.4(e).

[redacted]

"***Title Company***" means Amtrust Title Insurance Company, First American Title Company or another nationally recognized title insurance company experienced with wind projects reasonably acceptable to Buyer and Seller.

"***Title Objections***" is defined in Section 4.6(c)(iii).

"***Title Policy***" has the meaning set forth in Section 8.1(h)(i).

"***Title Policy Insured Owner***" means (i) Buyer, provided the Assets Distribution or Merger occurs at or immediately upon Closing, or (ii) the Company, otherwise.

"***Title Reports***" means preliminary standard form ALTA title commitments or the Preliminary Pro Forma Title Policy prepared by the Title Company with respect to the Real Property.

"***Total Capacity***" means the nameplate capacity (in kWac) of the Project as constructed at Mechanical Completion.

"***Total Turbines***" means 58 Vestas V136 4.5 MW wind turbines with 82 meter hub height.

"***TPRG Process***" means Buyer's third-party risk governance process applicable to all suppliers and vendors to the Project that is utilized to assess the security risk for assets that Buyer owns or will own, pursuant to which Buyer may conduct a risk assessment for such supplier's or vendor's adherence to security standards that comply with the NERC Critical Infrastructure Protection Reliability Standards, the NIST Cybersecurity Framework, ISO 27002, PCI-DSS, or any other substantially similar security standards required by industry regulations applicable to the supplier's or vendor's industry, and which includes (i) the supplier's or vendor's completion of a security controls questionnaire and provision of supporting documents (e.g. policies, procedures, diagrams, and third-party audit reports), as applicable, and (ii) such supplier or vendor providing a designated representative to discuss the supplier's or vendor's responses to any findings that result from Buyer's assessment and to work with Buyer and its representatives to design a written remediation plan that is required to be implemented by such supplier or vendor to mitigate the security risk. The TPRG Process is described in Attachment 21 to the Scope of Work and Specifications.

"***Transfer Taxes***" means all transfer, sales, use, goods and services, value added, documentary, stamp duty, transfer and conveyance Taxes and other similar Taxes, duties, fees or charges.

"***Transformer Supplier***" means [redacted]

"***Transformer Supply Agreement***" means that certain Electrical Transformer Supply Agreement, dated as of March 19, 2025, by and between the Company and the Transformer Supplier.

"***Transmission Owner***" means Commonwealth Edison Company or one of its Affiliates or its or their successors.

[redacted]

"***Transmission Owner Interconnection Facilities***" means the facilities identified as Transmission Owner Interconnection Facilities in the Interconnection Agreement and the Interconnection Construction Service Agreement(s).

"***Transmission Provider***" means PJM Interconnection, L.L.C. or its successors.

"[redacted].

[redacted]

"***Turbine***" means any of the wind turbine generators manufactured by the Turbine Supplier, each equipped with a rotor diameter and the other features described in the Scope of Work and Specifications, and such other features as more particularly described in the technical specifications set forth in the Turbine Supply Agreement.

"***Turbine Freewheeling and Maintenance Documents***" means the Turbine Supplier's Storage Instructions (Exhibit D.4 to the Turbine Supply Agreement), Extended Freewheeling Instructions (Exhibit E.9 to the Turbine Supply Agreement), and Freewheeling Instructions (Exhibit E.7 to the Turbine Supply Agreement).

"***Turbine Mechanical Completion***" is defined in Exhibit O.

"***Turbine Substantial Completion***" is defined in Exhibit O.

"***Turbine Substantial Completion Drop Dead Date***" means the date that is [redacted] after the Mechanical Completion Date.

"***Turbine Supplier***" means Vestas-American Wind Technology, Inc.

"***Turbine Supply Agreement***" means the supply agreement to be entered into between Turbine Supplier and Company consistent with the form attached hereto as Exhibit J, the Scope of Work and Specifications, and this Agreement and as otherwise reasonably approved by Buyer pursuant to the terms and conditions of this Agreement.

[redacted]

"***Updated Contractor Information***" is defined in Section 4.4(k)(iii)(A).

"***Updated Estimated Annual Energy Generation***" means the average annual net GWh of energy (as metered at the Interconnection) projected by the Independent Wind Adjustment Engineer to be produced during the 30-year period commencing on the Closing Date by the Total Turbines included in the as-built Project, assuming a p-value of 50. The Updated Estimated

Annual Energy Generation (i) shall be projected by the Independent Wind Adjustment Engineer using the same model, methodology, loss factors and wind data used by the Independent Wind Adjustment Engineer in preparing the Initial EPE Report, and (ii) shall take into account the Wind Report Update Criteria (and no other changes in the Project).

"***Updated Property Burdens Adjustment***" means an amount reflecting any increase in the aggregate rents, percentage rents, royalties and other payments under each Land Contract, over such aggregate amounts set forth in Schedule 1.1(e), determined as provided in Schedule 1.1(e).

"***Updated Survey***" means the from time to time updates to the Preliminary Survey reflecting changes to the Property and Land Contracts, the then current Site Plan, Updated Title Reports, and any other updates following Buyer's receipt of the Preliminary Survey pursuant to Section 4.6(d) and Section 8.1(h)(ii) and prior to Closing.

"***Updated Survey Sheet(s)***" means the updates to certain Preliminary Survey sheets as reasonably necessary to reflect resolution of material survey concern(s) identified by Buyer within its Title Objections or Updated Title Objections (e.g., to confirm a setback or encroachment matter and not only to address a cleanup survey comment), which concern(s) cannot otherwise be addressed to Buyer's reasonable satisfaction by other documentation or information provided by Seller prior to such concern(s) being addressed or resolved, as the case may be, in the As-Built Survey.

"***Updated Title Objections***" is defined in Section 4.6(d).

"***Updated Title Reports***" means the from time to time updates to the Preliminary Title Report issued by the Title Company reflecting changes to the Property and Land Contracts, Subordination Agreements, Crossing Agreements, and any other updates following Buyer's receipt of the Preliminary Title Report pursuant to Section 4.6(d) and Section 8.1(h)(i) and prior to Closing.

"***Wages***" means "wages" within the meaning of Treasury Regulation Section 1.45-7(d)(12) (as such meaning may be amended by any PWA Guidance).

[redacted]

"***Wildlife Restrictions***" means any requirement to avoid, minimize or mitigate impacts to any wildlife species adopted by Seller or the Company for the Project, or imposed on Seller, the Company or the Project by any Authority with jurisdiction over wildlife resources that imposes obligations with respect to or in any way restricts the Company's ability to operate the Facilities.

"***Wind Data***" is defined in Section 6.17.

"***Wind Project Neighbor Easement Agreement***" means an easement agreement, in the form attached hereto as Exhibit S-5, in favor of the Company covering land located in the Buffer Zone that grants to the Company an exclusive easement for the right and privilege to use, maintain and capture the free, unobstructed and natural availability, accessibility, flow, frequency, speed or direction of air or wind over and across the grantor's property, [redacted]; provided, however, that if Seller intends, with Buyer's prior

approval, to maintain any Land Contract as a Wind Project Neighbor Easement Agreement, the term thereof shall be deemed acceptable.

"***Wind Report Update Criteria***" is defined in Section 2.11(b).

"***Work***" means, other than the Buyer Scope of Work, all work for the management of the construction of the Project, the design, development, engineering, procurement, permitting, construction, installing, erection, interconnection, testing, commissioning, start-up and turnover of the Facilities, including the procurement, delivery, assembly, erection, installation, commissioning, start-up and turnover of the turbines, which work and services shall include all aspects of the work described in the Scope of Work and Specifications and the provision of all materials, equipment, machinery, tools, labor, transportation, administration and other actions, services and items required to complete and deliver the fully assembled, integrated, installed, tested and operational Facilities and the Project, including the fully assembled, integrated and operational turbines, all in accordance with the Material Contracts, the Property Agreements, the Company Permits, applicable Law, Prudent Industry Practices and this Agreement.

"***WPPA Report***" means a Wind Power Plant Assessment Report by the Turbine Supplier based on the Site data in which the Turbine Supplier has undertaken a load evaluation according to the IEC 614000-1 standard edition 3 to assess the design lifetime of the structural components of the Turbines on the Site and the required operational strategy to meet a thirty (30) year operational life.

Section 1.2 Rules of Interpretation. Unless otherwise expressly provided or unless required by the context in which any term appears:

(a) the singular shall include the plural and the plural shall include the singular;

(b) references to "Articles," "Sections," "Schedules," or "Exhibits" (if any) shall be to articles, sections, schedules or exhibits (if any) of this Agreement, as the same may be amended, modified, supplemented or replaced pursuant to the terms hereof from time to time;

(c) all references to a particular entity shall include a reference to such entity's successors and permitted assigns;

(d) the words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular Section or subsection of this Agreement;

(e) all accounting terms not specifically defined herein shall be construed in accordance with GAAP;

(f) references to this Agreement shall include a reference to all Schedules and Exhibits hereto as the same may be amended, modified, supplemented or replaced from time to time;

(g) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(h) the use of the word "including" in this Agreement to refer to specific examples shall be construed to mean "including, without limitation" or "including but not limited to" and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(i) relative to the determination of any period of time, "from" means "including and after," "to" means "to but excluding" and "through" means "through and including;"

(j) references to applicable Laws shall mean a reference to such applicable Laws as the same may be amended, modified, supplemented or restated and be in effect from time to time, including rules and regulations promulgated thereunder;

(k) unless otherwise specified to the contrary, the word "or" shall be inclusive and shall have the meaning conveyed by "and/or";

(l) whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified;

(m) any date specified for action that is not a Business Day shall mean the first Business Day after such date;

(n) a reference to any Contract is to that Contract as amended, novated, supplemented or replaced from time to time;

(o) all references in this Agreement to "dollars" or "$" shall, in each case, be deemed to refer to United States currency unless otherwise specifically provided;

(p) the phrase "to the extent" means "the degree by which" and not "if"; and

(q) terms used in this Agreement with respect to the PWA Requirements that are not otherwise defined herein but are used or defined in Section 48(a)(10), 48(a)(11), 48E(d)(3) or 48E(d)(4) of the Code or the PWA Guidance, as applicable, shall have the meanings given to such terms in such Code sections or the PWA Guidance.

The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

ARTICLE II
PURCHASE AND SALE OF PURCHASED INTERESTS

Section 2.1 Purchase and Sale of Purchased Interests. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Seller shall sell, convey, transfer, assign, and deliver to Buyer, free and clear of all Encumbrances, and Buyer shall purchase from Seller, the Purchased Interests, for the consideration specified in Section 2.2.

Section 2.2 Payment of Purchase Price. Upon the terms and subject to the conditions set forth in this Agreement, Buyer shall make payment to Seller by wire transfer of immediately available funds to the accounts specified in writing by Seller for such purpose, as follows:

(a) Closing Payment.

(i) On the Closing Date, Buyer shall pay the Closing Payment to Seller; and

(ii) On the Closing Date, Buyer shall, on behalf of Seller, make payment of the Payoff Amount to the administrative agent on behalf of the Financing Parties and the other secured parties under the Construction Loan Agreement.

(b) Substantial Completion Payment. [redacted] on the Substantial Completion Payment Date, Buyer shall pay the Substantial Completion Payment to Seller. [redacted]

(c) SC Punch List Holdback Release Payments. Within [redacted] following any calendar month after the Substantial Completion Payment Date in which the completion of an SC Punch List Item occurs, Buyer shall pay Seller an amount equal to the SC Punch List Holdback Release for such SC Punch List Item; [redacted]

(d) Final Completion Payment. Within [redacted] following the Final Completion Date, Buyer shall pay the Final Completion Payment to Seller; [redacted]

(e) PWA Holdback Release Payments. [redacted] within [redacted] following Buyer's receipt of the [redacted], Buyer shall pay Seller an amount equal to the PWA Holdback Amount, less the [redacted].

Section 2.3 Removed Turbines and Purchase Price Reduction.

On or before the Closing Date, Seller may eliminate Turbines from the Project ("***Removed Turbines***"); provided that (i) the remaining Turbines included in the Project shall at least be the Minimum Turbines, and (ii) the Purchase Price shall be adjusted on the Closing Date to an amount calculated as follows:

Adjusted Purchase Price = A x ((58 – B) / 58)

where:

A = Purchase Price prior to adjustment pursuant to this Section 2.3

B = the Removed Turbines

If Seller notifies Buyer of the removal of any Removed Turbines from the Project, the following provisions shall apply:

1) The Removed Turbines shall not be deemed Assets, and Seller shall cause Company to assign all right, title and interest in such Removed Turbines to Seller or one of its Affiliates prior to Closing. For the avoidance of doubt, Seller shall be entitled to all rights (and shall assume all obligations) of the Company under the Turbine Supply Agreement (including warranties provided by the Turbine Supplier) solely with respect to such Removed Turbines.

2) At its expense, Seller shall (x) be required to remove such Turbine from the Site and (y) reclaim and restore the location where such Removed Turbine is located as required under the applicable Land Contracts and applicable Law (including removing the Turbine foundations to the extent required by the applicable Land Contracts and applicable Law).

Section 2.4 Mechanics of Closing.

(a) No later than thirty (30) days before the projected Closing Date, Seller will prepare and deliver to Buyer a closing statement (the "***Closing Statement***") setting forth Seller's good faith calculation of the Closing Payment; provided, however, that with respect to items that arise after thirty (30) days prior to the projected Closing Date, Seller will prepare and deliver to Buyer an update to the Closing Statement solely with respect to such items (the "***Closing Statement Update***"). Unless Buyer objects in writing to the amounts set forth in the Closing Statement within [redacted] of Buyer's receipt of the Closing Statement, or within [redacted] of Buyer's receipt of such Closing Statement Update, Buyer will be deemed to have accepted such amounts and such amounts shall be considered final. If Buyer objects to any amounts set forth in the Closing Statement, the Parties will resolve the dispute by following the dispute resolution procedures set forth in Section 13.4.

(b) The consummation of the purchase and sale of the Purchased Interests (the "***Closing***") will take place telephonically and/or electronically at a mutually acceptable date and time within [redacted] following the satisfaction (or waiver by the applicable Party) of the conditions set forth in Section 8.1 and Section 9.1 (other than those conditions that by their nature are to be satisfied at the Closing), or at such other place and on such other date and time as may be mutually agreed by Buyer and Seller (the date on which the Closing actually occurs being referred to as the "***Closing Date***"). For the avoidance of doubt the Parties agree that (i) the conditions set forth in Section 8.1 are for the benefit of Buyer only and Buyer may compel Closing upon the satisfaction (or waiver by Seller) of the conditions set forth in Section 9.1 whether or not the conditions set forth in Section 8.1 have been satisfied, and (ii) that the conditions set forth in Section 9.1 are for the benefit of Seller only and Seller may compel Closing upon the satisfaction (or waiver by Buyer) of the conditions set forth in Section 8.1 whether or not the conditions set forth in Section 9.1 have been satisfied. Any Closing shall be effective as of 12:01 AM prevailing eastern time on the Closing Date.

Section 2.5 Closing; Costs.

(a) Expenses. Except as otherwise specified herein, each Party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Agreement, any Ancillary Agreement and to any action taken by such Party in preparation, negotiation, execution and performance of this Agreement and the Ancillary Agreements, including all expenses and costs incurred to obtain approvals required by such Party from Authorities. To the extent any such fees or expenses relating to the period prior to Closing are required to be paid by the Company after the Closing, Seller shall reimburse the Company within [redacted] of written notice to Seller.

(b) Prorations. All rent, insurance premiums and other costs and expenses of the Company, other than Taxes that are addressed in Section 10.4(b), but including (for the avoidance of doubt) any pre-Closing payments in lieu of Taxes, relating to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance and operation of the Project, including any payments due and owing under any Material Contract, Property Agreement or Permit shall be prorated between Seller and Buyer as of the Closing Date, so that Seller is responsible for the prorated amounts incurred during, or otherwise relating to, the period of time prior to the Closing Date, and Buyer is responsible for the prorated amounts incurred during, or otherwise relating to, the period of time from and after the Closing Date; provided, however, that in no event shall this Section 2.5 limit Seller's liability for costs and expenses under Section 4.1(d). For the avoidance of doubt, Buyer shall reimburse Seller for any pre-payments of rent, insurance premiums or other costs and expenses of the Company that are paid before the Closing Date but that are or will be applied to any period after the Closing Date (such amount the "***Post-Closing Proration Amount***"). Notwithstanding anything to the contrary in the foregoing, revenues from operation of the Project, including sales of test power, if sold notwithstanding the prohibition in Section 4.13, shall be the property of the Company and, except for payment of any incremental rent due and payable prior to the Closing as a result of the production of test power, shall not be distributed out of the Company prior to the completion of Closing, and shall be transferred to Buyer at Closing; [redacted]

(c) Independent Accountant and Independent Engineer Costs. Buyer shall pay [redacted] and Seller shall pay [redacted] of any fees and expenses payable to the Independent Accountant or the Independent Engineer for their services described in this Agreement, including in any Exhibit hereto (but not for its services, if any, to Seller, the Company or the Financing Parties in connection with any Financing which shall be borne by Seller).

(d) Real Property; Title and Survey. On or prior to the Closing Date, Seller shall pay for the Preliminary Title Report, Title Report, and Updated Title Reports (including amendments, updates and supplements thereto), the Preliminary Survey, Survey, Updated Survey, and Updated Survey Sheet(s) (including amendments, updates and supplements thereto) and all recording charges and expenses incurred in connection with recording any Property Agreements (or amendments or memoranda thereof), Subordination Agreements, and Crossing Agreements

prior to the Closing Date. On or prior to the Closing Date, Seller shall also pay for all premiums, fees and related charges incurred for the Title Policy and the Closing Title Endorsements. Seller shall also pay for all premiums, fees and related charges in connection with any bringdown of or modifications to the Title Policy in connection with the release of the Encumbrances related to the Construction Loan Agreement, if applicable, and any As-Built Defects raised by the As-Built Survey.

Section 2.6 Post-Closing.

(a) Post-Closing Statement. Within forty-five (45) days after the Closing Date, if Buyer reasonably believes that the Closing Statement is materially inaccurate, Buyer may prepare and deliver to Seller a closing statement (the "***Post-Closing Statement***") of the Closing Payment as of the close of business on the Closing Date, which statement shall deduct from Buyer's calculation of the Closing Payment any Excluded Liabilities retained by the Company, to Buyer's Knowledge, as of the preparation of the Post-Closing Statement. Seller will provide Buyer such information as Buyer may reasonably request in connection with its preparation of the Post-Closing Statement. If (i) the calculation of the Closing Payment as set forth in the Post-Closing Statement is greater than the calculation of the Closing Payment as set forth in the Closing Statement, then Buyer will pay to Seller an amount equal to the excess, and (ii) the calculation of the Closing Payment as set forth in the Closing Statement is greater than the calculation of the Closing Payment as set forth in the Post-Closing Statement, then Seller will pay to Buyer an amount equal to the excess (in either case, the "***Post-Closing Adjustment***").

(b) Payment of Adjustments. Unless Seller objects to the amounts set forth in the Post-Closing Statement in accordance with Section 2.6(c), payment of the Post-Closing Adjustment will be made within [redacted] after Seller's receipt of the Post-Closing Statement.

(c) Adjustment Disputes. Within [redacted] after delivery of the Post-Closing Statement by Buyer to Seller, Seller may object in writing to the amounts set forth in the Post-Closing Statement, stating in reasonable detail its objections and providing its good-faith calculation of the objectionable amount or amounts. Buyer will provide Seller such information as Seller may reasonably request in connection with its review of the Post-Closing Statement. If Seller fails to deliver notice of its objections within the [redacted] period, Seller will be deemed to have accepted Buyer's calculation set forth in the Post-Closing Statement. If Seller objects to any amounts set forth in the Post-Closing Statement, the Parties will attempt to resolve the dispute by negotiation in good faith. If the Parties are unable to resolve the dispute within [redacted] of the date of delivery of Seller's objection in writing, then either Party may refer the dispute to the Independent Accountant, and the Independent Accountant will settle the dispute as soon as practicable. The Independent Accountant will resolve any such objections and determine, in accordance with the criteria specified in the first sentence of Section 2.6(a) (however, such determination will not be limited by Buyer's Knowledge), the amounts to be included in the Post-Closing Statement. Each Party will provide the Independent Accountant with a definitive statement of the position of such Party with respect to each unresolved objection. Buyer will provide the Independent Accountant access to the books and records relating to the Project or the Company. The Independent Accountant will limit its review solely to matters in dispute and have [redacted] to carry out a review of the unresolved objections and prepare a written statement

of its determination regarding each unresolved objection. The determination of the Independent Accountant will be set forth in writing and will be final and binding upon the Parties. Buyer will revise the Post-Closing Statement, as appropriate to reflect the resolution of any objections pursuant to this Section 2.6(c). Notwithstanding anything to the contrary in this Section 2.6(c), either Party may commence the dispute resolution procedures under Section 13.4(b) and Section 13.5 with respect to any dispute over the existence or amount of any Excluded Liability, in which case the Independent Accountant shall not resolve such dispute.

(d) Final Payment. Once any disputes in accordance with Section 2.6(c) have been resolved between the Parties or determined by the Independent Accountant, then the amount due pursuant to the Post-Closing Statement will be paid within [redacted] of such resolution to the Party entitled to receive it, together with interest at the Interest Rate from the Closing Date to the date of payment of the Post-Closing Adjustment.

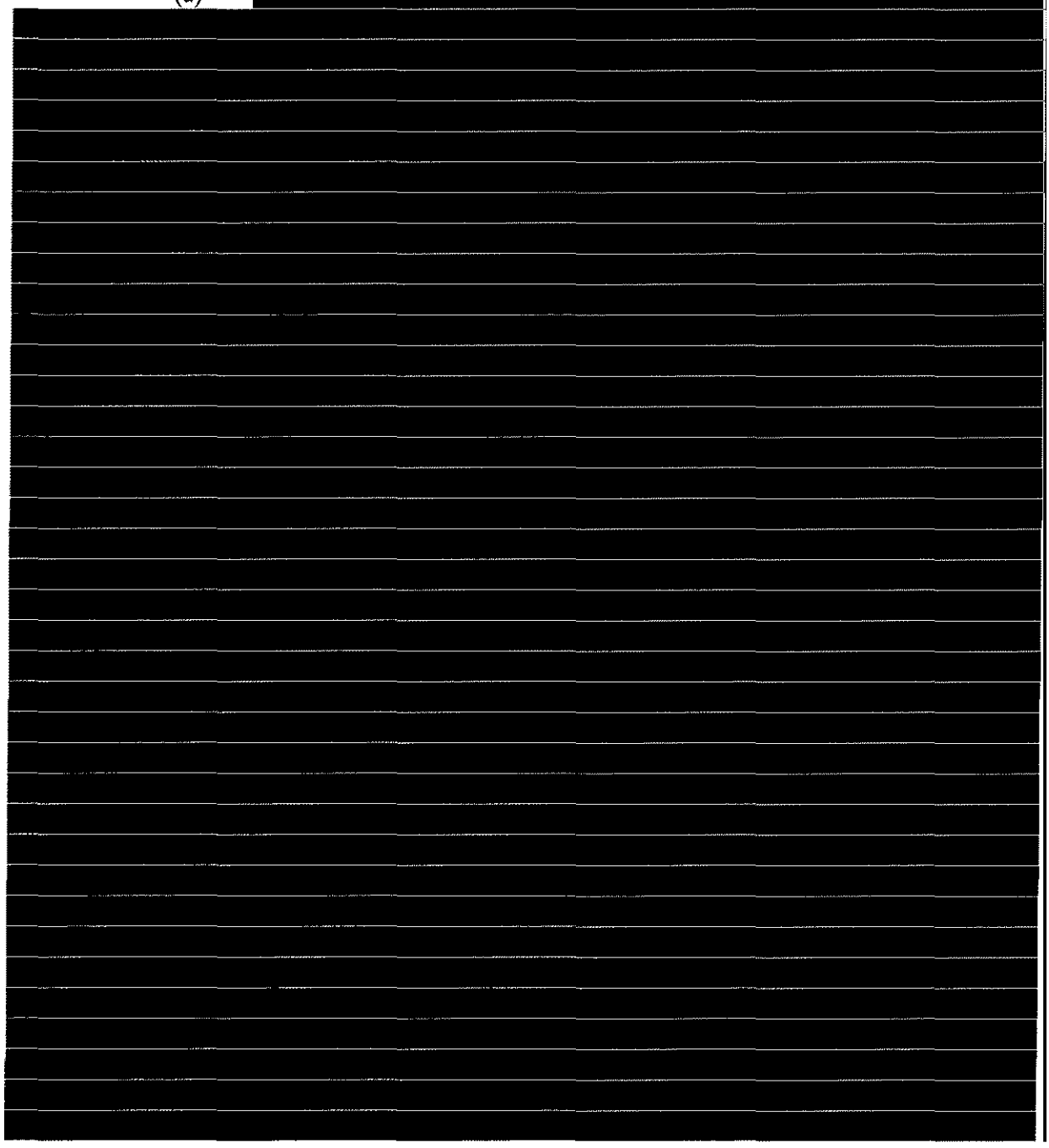
Section 2.7 Purchase Price Allocation. No later than one hundred twenty (120) calendar days following the Closing Date, Buyer shall deliver to Seller a proposed schedule (the "***Purchase Price Allocation Schedule***") allocating the Purchase Price paid at Closing among the Assets of the Company. Buyer, Seller, and the Company shall report for Tax purposes and file Tax Returns in a manner consistent with the final Purchase Price Allocation Schedule, unless Seller objects in writing to the Purchase Price Allocation Schedule within [redacted] after Seller's receipt of the Purchase Price Allocation Schedule or otherwise required by a change in Law occurring after the date hereof, a closing agreement with an applicable Tax Authority or a final non-appealable judgment of a court of competent jurisdiction; provided, however, that (a) Buyer's cost for the interest in the Company that it is deemed to acquire may differ from the total amount allocated hereunder to reflect the inclusion in the total cost of items (for example, capitalized acquisition costs) not included in the amount so allocated, (b) the amount realized by Seller may differ from the total amount allocated hereunder to reflect transaction and other costs that reduce the amount realized for federal income tax purposes, and shall not include Buyer's acquisition costs described in subsection (a) of this proviso, and (c) neither Seller or any of its Affiliates nor Buyer or any of its Affiliates will be obligated to litigate any challenge to such allocation of the Purchase Price by an Authority. If Seller objects to the Purchase Price Allocation Schedule, the Parties will attempt to resolve the objections by negotiation in good faith. If the Parties are unable to resolve Seller's objections within [redacted] of Buyer's receipt of Seller's objection notice, each of Seller and Buyer shall use its own allocation for all applicable Tax purposes. Any adjustments to the Purchase Price pursuant to this Agreement shall be allocated among the interests in the Company for purposes of the Purchase Price Allocation Schedule in accordance with this Section 2.7 except to the extent applicable Law requires otherwise.

Section 2.8 Withholding Rights. The Parties acknowledge that, under current Tax law, no withholding from the consideration payable by Buyer pursuant to this Agreement shall be required if Seller delivers the certificate required by Section 8.1(a)(ii)(B). If, as a result of a change in Tax law, Buyer determines that an amount is required by Law to be withheld from a payment due hereunder to Seller, Buyer shall notify Seller as soon as reasonably practicable of such determination, with reasonable specificity; provided, however, that Seller acknowledges and agrees that Buyer will be obligated to withhold an amount under Section 1445 of the Code if Seller fails to comply with Section 8.1(a)(ii)(B). If after such notice and cooperation (taking into account any due date for deducting or withholding such amounts) Buyer continues to believe that any

amount is required by Law to be withheld, then Buyer shall be entitled to withhold and deduct from the consideration otherwise payable pursuant to this Agreement such amounts which amounts shall be paid over to the appropriate Tax Authorities and Buyer shall provide Seller with evidence of such withholding and payment. To the extent that amounts are so withheld and paid over to the appropriate Tax Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding were made.

Section 2.9 [redacted]

(a) [redacted]



[redacted]

(b) [redacted]

(c) [redacted]

Section 2.10 Buyer's Agent. Buyer hereby appoints Buyer's Agent, an Affiliate of Buyer, to serve as its representative and agent for all purposes in connection with this Agreement and the Ancillary Agreements including: (i) the waiver and amendment of the rights and duties of Buyer under this Agreement and the Ancillary Agreements; (ii) the giving and receiving of notices and requests hereunder; (iii) the determination of the adjustments in Article II and the resolution of any dispute regarding such adjustments; (iv) the handling (including the election of any applicable Buyer remedies), negotiation, and resolution of any accounting matters; and (v) doing and receiving all things provided for concerning "Buyer" in this Agreement and the Ancillary Agreements and making all elections of Buyer under this Agreement and the Ancillary Agreements. Seller shall be entitled and obligated to act in reliance upon any and all acts and things done and performed by or agreements made with respect to all matters dealt with in this Agreement and the Ancillary Agreements by the Buyer Agent on behalf of Buyer, and the foregoing shall be binding on Buyer, as fully and effectively as though Buyer had done, performed, made or executed the same.

Section 2.11 Wind Adjustment to the Purchase Price.

(a) Prior to the Execution Date, Buyer and Seller jointly engaged the Independent Wind Adjustment Engineer to prepare a report for the Project based on the then-

available design assumptions for the Project and using the Independent Wind Adjustment Engineer's typical methods for reliance-grade reports, each of Seller and Buyer have received a copy of such report (the "***Initial EPE Report***"), and such report determined the estimated average annual net GWh of energy (as metered at the Interconnection) to be produced during the 30-year period commencing on the Closing Date by the Total Turbines located at the Initial Turbine Locations, assuming a p-value of 50, to be [redacted] GWh ("***Initial Estimated Produced Energy***").

(b) At least sixty (60) days prior to the anticipated Firm Date, (i) Seller shall deliver to Buyer an updated WPPA Report from the Turbine Supplier that takes into account any changes to the Wind Report Update Criteria from the Initial EPE Report, and (ii) Buyer and Seller shall jointly reengage the Independent Wind Adjustment Engineer to prepare a bringdown of the Initial EPE Report (the "***Firm Date EPE Report***") using the same Wind Data, model, methodology and loss factors (for the avoidance of doubt, such loss factors, including wake and blockage loss factors, shall be updated to reflect the changes, if any, in the Wind Report Update Criteria) used in the Initial EPE Report, but reflecting any of the following (collectively, the "***Wind Report Update Criteria***"): (w) any changes in the planned location of any Turbine(s) from the Initial Turbine Locations, (x) any changes in Turbine equipment that could impact output, and (y) the results of the updated WPPA Report, including any curtailments reflected therein. Seller and Buyer shall mutually agree on the Wind Report Update Criteria to be provided to the Independent Wind Adjustment Engineer. The Firm Date EPE Report shall determine the Updated Estimated Annual Energy Generation taking into account the Wind Report Update Criteria and no other changes to the Project, and describe the basis therefor. For the avoidance of doubt, the Firm Date EPE Report shall not take into account any changes in Wildlife Restrictions applicable to the Project. The Independent Wind Adjustment Engineer shall prepare the Firm Date EPE Report in accordance with the requirements of this Agreement, and deliver a draft Firm Date EPE Report simultaneously to Seller and Buyer within [redacted] after the Independent Wind Adjustment Engineer is jointly reengaged by Seller and Buyer and provided the Wind Report Update Criteria. Within [redacted] after the Independent Wind Adjustment Engineer delivers the Firm Date EPE Report to Buyer and Seller (the "***Firm Date Wind Adjustment Report Objection Deadline***"), each of Buyer and Seller shall notify the other in writing of any objections that it has with respect to the Firm Date EPE Report, and any such objections shall be limited to those concerning deviations from the Initial EPE Report and compliance with this Section 2.11(b). If neither Buyer nor Seller timely notifies the other in writing of objections to the Firm Date EPE Report on or before the Firm Date Wind Adjustment Report Objection Deadline, the Firm Date EPE Report shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error. If either Buyer or Seller timely notifies the other in writing of objections to the Firm Date EPE Report, Buyer and Seller shall work in good faith with each other and the Independent Wind Adjustment Engineer to promptly resolve such objections, and the Firm Date EPE Report as agreed by Buyer, Seller and the Independent Wind Adjustment Engineer shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error; provided that if the Parties and the Independent Wind Adjustment Engineer do not resolve all such objections within [redacted] after an objection notification is delivered, the Independent Wind Adjustment Engineer shall, within [redacted] thereafter, resolve any outstanding objections in its professional judgment and issue a Firm Date EPE Report which shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error. The Updated Estimated Annual Energy Generation as set forth in the Firm Date

EPE Report (or otherwise agreed by the Parties in writing), shall be deemed to be the "***Firm Date Estimated Produced Energy***".

(c) At least sixty (60) days prior to the anticipated Closing Date, (i) Seller shall deliver to Buyer an updated WPPA Report from the Turbine Supplier that takes into account any changes to the Wind Report Update Criteria from the Firm Date EPE Report, and (ii) Seller and Buyer shall jointly reengage the Independent Wind Adjustment Engineer to prepare a bringdown of the Firm Date EPE Report (the "***Final EPE Report***") using the same Wind Data, model, methodology and loss factors (for the avoidance of doubt, such loss factors, including wake and blockage loss factors, shall be updated to reflect the changes, if any, in the Wind Report Update Criteria) used in the Firm Date EPE Report, but reflecting any changes in the Wind Report Update Criteria. Seller and Buyer shall mutually agree on the Wind Report Update Criteria to be provided to the Independent Wind Adjustment Engineer. The Final EPE Report shall determine the Updated Estimated Annual Energy Generation taking into account the Wind Report Update Criteria and no other changes to the Project, and describe the basis therefor. For the avoidance of doubt, the Final EPE Report shall not take into account any changes in Wildlife Restrictions applicable to the Project. The Independent Wind Adjustment Engineer shall prepare the Final EPE Report in accordance with the requirements of this Agreement, and deliver a draft Final EPE Report simultaneously to Seller and Buyer within [redacted] after the Independent Wind Adjustment Engineer is jointly reengaged by Seller and Buyer and provided the Wind Report Update Criteria. Within [redacted] after the Independent Wind Adjustment Engineer delivers the Final EPE Report to Buyer and Seller (the "***Final Wind Adjustment Report Objection Deadline***"), each of Buyer and Seller shall notify the other in writing of any objections that it has with respect to the Final EPE Report, and any such objections shall be limited to those concerning deviations from the Firm Date EPE Report and compliance with this Section 2.11(c). If neither Buyer nor Seller timely notifies the other in writing of objections to the Final EPE Report on or before the Final Wind Adjustment Report Objection Deadline, the Final EPE Report shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error. If either Buyer or Seller timely notifies the other in writing of objections to the Final EPE Report, Buyer and Seller shall work in good faith with each other and the Independent Wind Adjustment Engineer to promptly resolve such objections, and the Final EPE Report as agreed by Buyer, Seller and the Independent Wind Adjustment Engineer shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error; provided that if the Parties and the Independent Wind Adjustment Engineer do not resolve all such objections within [redacted] after an objection notification is delivered, the Independent Wind Adjustment Engineer shall, within [redacted] thereafter, resolve any outstanding objections in its professional judgment and issue a Final EPE Report which shall be deemed final and not subject to later challenge or dispute by either Buyer or Seller absent manifest error. The Updated Estimated Annual Energy Generation as set forth in the Final EPE Report (or otherwise agreed by the Parties in writing), shall be deemed to be the "***Final Estimated Produced Energy***".

(d) The Parties shall share equally all costs and expenses of the Independent Wind Adjustment Engineer in preparing the Initial EPE Report, the Firm Date EPE Report and the Final EPE Report.

(e) If the Final Estimated Produced Energy falls below the Initial Estimated Produced Energy, then the Purchase Price shall be reduced on the Closing Date by an amount (the "***Wind Adjustment***") to be calculated as set forth in Exhibit E.

(f) For the avoidance of doubt, in no event shall the Purchase Price be increased pursuant to this Section 2.11.

Section 2.12 [redacted]

(a) [redacted]

(b) [redacted]

[redacted]

(c) [redacted]

(*i*) [redacted]

(A) [redacted]

(B) [redacted]

(*C*) [redacted]

(D) [redacted]

(*ii*) [redacted]

(A) [redacted]

(B) [redacted]

(C) [redacted]

(d) [redacted]

(i) [redacted]

(A) [redacted]

(B) [redacted]

(C) [redacted]

(D) [redacted]

[redacted]

(ii) [redacted]

(A) [redacted]

(B) [redacted]

(C) [redacted]

(e) [redacted]

(i) [redacted]

(ii) [redacted]

[redacted]

(f) [redacted]

[redacted]

(i) [redacted]

[redacted]

(ii) [redacted]

[redacted]

(g) [redacted]

[redacted]

(h) [redacted]

[redacted]

[redacted]

Section 2.13 [redacted]

(a) [redacted]

(b) [redacted]

(c) [redacted]

(d) [redacted]

(A) [reserved];

(B) [redacted]

[redacted]

(C) [redacted]

(D) [redacted]

[redacted]

(e) [redacted]

(A) [redacted]

[redacted]

(B) [redacted]

(x) [redacted]

[redacted]

(y) [redacted]

(f) [redacted]

(i) [Reserved].

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

[redacted]

(v) [redacted]

(vi) [redacted]

(vii) [redacted]

(viii) [redacted]

(g) [redacted]

(h) [redacted]

(i) [redacted]

[redacted]

Section 2.14 [redacted]

(a) [redacted]

(b) [redacted]

(c) [redacted]

(d) [redacted]

ARTICLE III
CONDITIONS PRECEDENT; FIRM DATE

Section 3.1 Effectiveness of Purchase and Sale Obligations. Notwithstanding anything to the contrary contained herein, unless and until all conditions set forth in, Sections 3.2, 3.3 and 3.4 (collectively, the "***Firm Date Conditions***") have been satisfied (or waived in writing by (i) Buyer, in the case of Buyer Firm Date CPs or (ii) Seller, in the case of Seller Firm Date CPs), Buyer shall have no obligation to purchase the Purchased Interests or pay the Purchase Price or any other amounts to Seller hereunder, and Seller shall have no obligation to sell the Purchased Interests to Buyer.

Section 3.2 Buyer Firm Date CPs. Subject to any other applicable provisions hereof, the Firm Date shall be subject to fulfillment (or waiver in writing by Buyer) of each of the following conditions precedent on or before the Firm Date Deadline (the "***Buyer Firm Date CPs***"):

(a) Seller shall have delivered to Buyer each of the following:

(i) the Beginning of Construction Certificate (Firm Date), executed by Seller, with no changes from the form attached hereto as Exhibit HH-3, other than those that, in the sole discretion of Buyer, do not represent risk that the ITCs with respect to the Project will be reduced or otherwise adversely affected;

(ii) Site Plan incorporating Buyer's comments, and approved by Buyer, in accordance with Section 4.4(a); provided, however, that the Site Plan shall not be required to include the intended location to guy lines, communication lines and detention basins until the Mobilization Date, by which Seller shall deliver to Buyer the Site Plan including such items.

(iii) a certificate executed by an officer of Seller certifying that (i) the representations and warranties made by Seller in Article VI hereof are true and correct in all material respects as of the Firm Date (except, in each case, to the extent that any of representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in all respects, and (ii) Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller at or before the Firm Date;

(iv) the Preliminary Title Report approved or deemed approved by Buyer pursuant to Section 4.6(d);

(v) the Preliminary Survey approved or deemed approved by Buyer pursuant to Section 4.6(d);

(vi) copies of all Crossing Agreements obtained and a list of those Crossing Agreements being pursued;

(vii) the Financial Assurance Certificate; and

(viii) one or more Phase I environmental site assessments and other documentation satisfying the requirements set forth in Section 4.6(c)(i).

(b) The Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall not have occurred and be continuing a Seller Parent Guaranty Default or Letter of Credit Default with respect to any Letter of Credit posted by Seller.

(c) The Site Finalization Date shall have occurred.

(d) All insurance policies required to be obtained and maintained in accordance with Section 4.14 shall be in full force and effect and Seller shall have delivered to Buyer certificates of insurance with respect thereto.

(e) [redacted]

(f) To the extent Seller or the Company has obtained Financing from a third party and the Construction Loan Agreement requires delivery of a permitting opinion to the Financing Parties, Seller shall have delivered to Buyer a copy of such permitting opinion and shall either have such permitting opinion delivered to Buyer as an additional recipient or shall obtain a reliance letter in Buyer's favor and acceptable to Buyer;

(g) To the extent Seller has obtained Financing from a third party and the Construction Loan Agreement requires delivery of an independent engineer report to the Financing Parties thereto, a copy of such independent engineer report shall have been delivered to Buyer.

(h) All of the Major Project Documents and the Property Agreements (other than the Wind Project Neighbor Easement Agreements) have been executed and delivered and shall be in full force and effect.

(i) Other than Buyer Permits, Seller shall have obtained and Made Available all local and county approvals (including from Livingston County, Illinois) and Permits required for the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation or maintenance of the Project, or the transfer of the Purchased Interests to Buyer pursuant to this Agreement, or the Assets Distribution to Buyer or Merger, all of which shall be in full force and effect and not subject to appeal.

(j) Buyer and Turbine Supplier shall have agreed to a service and maintenance agreement (the "***Service and Maintenance Agreement***") for the service and maintenance of the Turbines and related equipment for the Maintenance Term (as such term is defined in the Service and Maintenance Agreement), and Buyer and Turbine Supplier shall have entered into an escrow agreement in form and substance, and with an escrow agent, reasonably satisfactory to Buyer pursuant to which Buyer and the Turbine Supplier agree to deposit their respective signature pages to the Service and Maintenance Agreement with the escrow agent to hold in escrow until such signature pages are released to Buyer and the Turbine Supplier upon the condition that the Closing is occurring contemporaneously with such release, and Buyer the Turbine Supplier shall have delivered their executed signature pages to the Service and Maintenance Agreement to the escrow agent pursuant to the escrow agreement.

(k) [redacted]

(l) [redacted]

(m) [redacted]

(n) [redacted]

(o) [redacted]

(p) [redacted]

(q) [redacted]

(r) [redacted].

Section 3.3 Seller Firm Date CPs. Subject to any other applicable provisions hereof, the Firm Date shall be subject to fulfillment (or waiver in writing by Seller) of each of the following conditions precedent on or before the Firm Date Deadline (the "***Seller Firm Date CPs***"):

(a) Buyer shall have delivered to Seller a certificate executed by an officer of Buyer certifying that (i) the representations and warranties made by Buyer in Article VII hereof are true and correct in all material respects as of the Firm Date (except, in each case, to the extent that any of representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in all respects, and (ii)

Buyer shall have performed in all material respects all covenants required by this Agreement to be performed by Buyer at or before the Firm Date.

(b)

(c)

(d) the Financial Close Date shall have occurred;

(e)

(f)

(g)

(h)

[redacted]

(i) [redacted]

Section 3.4 Mutual Firm Date CPs. Subject to any other applicable provisions hereof, the Firm Date shall be subject to fulfillment (or joint waiver in writing by Buyer and Seller) of each of the following conditions precedent on or before the Firm Date Deadline (the "***Mutual Firm Date CPs***"):

(a) Company shall have entered into the Interconnection Agreement and the Interconnection Construction Service Agreement(s); Seller has provided fully-executed copies of each agreement to Buyer; and, if Transmission Provider determines that it required to file either such agreement with FERC, Company has received a final Order from FERC approving each such agreement.

(b) Pursuant to the EPC Contract and, to the extent applicable for ITC purposes, the other Major Project Documents, the applicable Contractor has agreed to comply with the PWA Requirements, which Major Project Documents are is in form and substance reasonably satisfactory to Buyer and Seller and the provisions of such Major Project Documents relating to compliance with the PWA Requirements shall be satisfactory to Buyer in its sole discretion.

(c) The Required Commission Approvals shall have been obtained and have become final and non-appealable.

(d) All Required FERC Approvals (if any) shall have been obtained and shall be in full force and effect, without any material condition or restriction on either of the Parties or otherwise affecting the operation or use of the Facilities in any material respect that is unacceptable to the Parties.

(e) [Reserved].

(f) Seller shall have secured "not to exceed" or "firm" pricing under each of the Major Project Documents, which shall prevent the applicable Contractor from increasing the costs incurred by Company under such Major Project Documents for any reason.

(g) No Material Adverse Effect has occurred and is continuing as of the Firm Date Deadline.

(h) Seller shall have, or caused the Company to have, obtained or delivered, as applicable, all of the Seller Consents, which Seller Consents shall be final, non-appealable and in full force and effect and true and correct copies of which shall have been received by Buyer. Buyer shall have obtained all of the Buyer Consents (other than Buyer Commission Approvals, which

are covered by clause (c) above), which Buyer Consents shall be final, nonappealable and in full force and effect and true and correct copies of which shall have been received by Seller.

(i) [redacted]

(j) Company has entered into the Road Use Agreements, in a form reasonably acceptable to Seller and approved by Buyer pursuant to Section 4.4(e).

(k) To the extent any of the FAA DNHs obtained by Company before the Execution Date are required to be amended or replaced, Seller shall have obtained approval from the FAA for each of the turbine locations set forth on Schedule 4.4(a); provided, that if the location of any of the Turbines has moved from the Initial Turbine Locations, Seller shall have obtained approval of an FAA DNH for such Turbine(s) at the new turbine location (the "***FAA DNH Approvals***"), and the FAA DNHs issued as the result of such FAA DNH Approvals are final, nonappealable and in full force and effect and otherwise in form and substance reasonably satisfactory to Seller and Buyer.

(l) To the extent any of the FAA DNHs obtained by the Company before the Execution Date are required to be amended or replaced or if the locations of any of the Turbines has moved from the Initial Turbine Locations, and a mitigation agreement is required in connection therewith, Seller shall have entered into the mitigation agreement, in the form approved by Buyer pursuant to Section 4.4(e).

(m) Seller has obtained all of the necessary resolutions or other authorizations from its relevant governing body authorizing the execution, delivery and performance of this Agreement and any instruments or agreements required hereunder (collectively, the "***Seller Approvals***"), in each case, no later than [redacted]; provided that this condition shall be deemed satisfied upon Seller's delivery of the Seller Approvals Notice to Buyer.

(n) [redacted]

(o) [redacted]

(p) [redacted]

[redacted]

(q) [redacted]

Section 3.5 Covenants.

(a) Buyer shall use commercially reasonable efforts to satisfy each of the Buyer Responsibility Firm Date Conditions no later than the Firm Date Deadline, and reasonably cooperate with Seller in connection with the satisfaction of the Seller Responsibility Firm Date Conditions. Seller shall use commercially reasonable efforts to satisfy each of the Seller Responsibility Firm Date Conditions no later than the Firm Date Deadline, and reasonably cooperate with Buyer in connection with the satisfaction of the Buyer Responsibility Firm Date Conditions.

(b) If Seller obtains all Seller Approvals, Seller shall provide written notice to Buyer that the Seller Approvals have been obtained (a "***Seller Approvals Notice***") within five (5) Business Days after all of the Seller Approvals have been obtained.

(c) If less than all of the Seller Approvals are obtained on or before [redacted], Seller shall provide written notice of its failure to obtain the Seller Approvals (a "***Seller Disapproval Notice***") no later than [redacted].

Section 3.6 Termination for Failure to Achieve Firm Date. Either Party shall have the right to terminate this Agreement if (a) the Firm Date has not occurred on or before the Firm Date Deadline, (b) [redacted] (c) Buyer provides notice to Seller that it reasonably believes any other Buyer Responsibility Firm Date Condition cannot be satisfied by the Firm Date Deadline or (d) Seller either (i) provides a Seller Disapproval Notice to Buyer or (ii) fails to provide a Seller Approvals

Notice to Buyer on or before [redacted], in each case, by providing written notice to the other Party. If either Party elects to terminate this Agreement pursuant to this Section 3.6, then this Agreement shall terminate and, except for (i) any Losses sustained or incurred in connection with any fraud, reckless disregard, intentional misrepresentation, intentional breach, or willful misconduct of either Party against the other Party in connection with this Agreement and (ii) [redacted], no Party shall have any further liability or obligation to the other Party hereunder. [redacted]

Section 3.7 Suspension for Failure to Achieve Firm Date. If (a) Seller delivers to Buyer written notice that Seller reasonably believes that a Seller Responsibility Firm Date Condition or Firm Date Condition set forth in Section 3.3 or Section 3.4 cannot be satisfied by the Firm Date Deadline or (b) [redacted], then the Parties shall negotiate in good faith one or more amendments to the Agreement to address such Firm Date Condition and neither Party shall have any obligation to incur any costs in connection with the Firm Date Conditions unless or until the Parties enter into such amendment or such Firm Date Condition is satisfied, and the Outside Date shall be extended on a day for day basis, but in no event shall the Outside Date be extended beyond the Drop Dead Date. For the avoidance of doubt, in the event

that the Parties are not able agree upon such an amendment prior to the Firm Date Deadline, then either Party may terminate this Agreement on the Firm Date Deadline.

ARTICLE IV
DEVELOPMENT AND CONSTRUCTION COVENANTS

Section 4.1 Development and Construction Generally.

(a) Seller shall (i) cause the Project to be designed, developed, engineered, procured, permitted, constructed, installed, interconnected, tested, commissioned, owned, operated and maintained in accordance with this Agreement, including the Scope of Work and Specifications, the Material Contracts, Property Agreements and Prudent Industry Practices and in compliance with all applicable Laws and Permits, (ii) use commercially reasonable efforts to cause the Project to achieve Mechanical Completion by the Outside Date and (iii) cause the Project to achieve Mechanical Completion by the Guaranteed Mechanical Completion Date and, pursuant to the terms and conditions of this Agreement [redacted], Substantial Completion by the Guaranteed Substantial Completion Date.

(b) Seller shall cause any temporary meteorological towers to be removed from the Site prior to the Closing Date and at its cost restore the real property on which such meteorological towers were located in accordance with applicable Laws and the requirements of the Land Contracts that apply in the case of termination of such Land Contracts.

(c) For all purposes of this Agreement, the date of achievement of a completion milestone shall be the date stated in the applicable completion certificate delivered by Seller as to which such completion milestone is either accepted by (or pursuant to this Agreement is deemed accepted by) Buyer in accordance with Exhibit O or the date determined pursuant to the dispute resolution provisions set forth in Section 13.4(e) that such completion milestone was achieved (which date shall not be earlier than the date such certificate was delivered to Buyer).

(d) Seller shall be responsible for any and all costs, expenses and Liabilities associated with designing, developing, engineering, procuring, constructing, installing, testing, commissioning and financing the Project prior to the Closing Date (and, pursuant to the terms and conditions of this Agreement [redacted], through Final Completion), and of operating and maintaining the Project prior to the Closing Date, including (i) the Liabilities incurred under the Material Contracts, Property Agreements and the Company Permits and (ii) any and all Financing Costs, in each case under clause (i) and (ii) whether accruing or becoming due and payable before or after the Closing. Notwithstanding anything in this Agreement to the contrary, Seller shall be solely responsible for any and all costs and expenses required for the Project to achieve (i) Mechanical Completion and (ii) pursuant to the terms and conditions of this Agreement [redacted], Substantial Completion and Final Completion, other than [redacted].

(e) Notwithstanding anything contrary set forth in this Agreement (including Exhibit M), the Parties acknowledge and agree that, prior to Closing, none of Seller, Company, nor their Affiliates shall be required to, and, without Buyer's prior written consent which may be

withheld in Buyer's sole discretion, none of them shall, perform any of the following activities in relation to the Project: (i) apply for, or obtain, permission from FERC under Section 205 of the Federal Power Act granting market based rate authority authorizing the Company to sell energy; (ii) sell any energy generated by the Project, including test energy; or (iii) energize the Project's interconnection facilities.

Section 4.2 Communications; Progress Report; Buyer Site Representative.

(a) Seller shall regularly communicate and consult with Buyer regarding the continuing design, development, engineering, procuring, permitting, construction, installation, interconnection, testing, commissioning and financing of the Project, and Seller shall in good faith consider Buyer's input and comment with respect to any matters that may arise in respect of such continued development. In furtherance of the foregoing, Seller shall furnish to Buyer a monthly development and construction report in the form attached hereto as Exhibit P (the "***Monthly Progress Report***"). Seller shall promptly notify Buyer of any event of default under the Construction Loan Agreement or any of the Material Contracts or Property Agreements or any material violation of any Company Permit or applicable Law.

(b) Seller shall permit Buyer to designate an individual or individuals with appropriate qualifications as its representative at the Site ("***Buyer's Site Representative***") under this Agreement. Buyer shall designate Buyer's Site Representative within thirty (30) days after Firm Date. Buyer's Site Representative shall be permitted to observe, on behalf of Buyer, the performance of the Work at the Site as set forth in more detail in Section 4.4(b). Buyer may substitute Buyer's Site Representative with another qualified person at any time upon prior written notice to Seller.

Section 4.3 Other Seller Actions.

(a) Throughout the period prior to the Closing Date, Seller shall pursue, and shall cause the Company to pursue, diligently Project activities including those necessary to satisfy all Project-related conditions to the Closing and to the achievement of Mechanical Completion, Substantial Completion and Final Completion (including the acquisition of Property not owned, held by easement or leased by the Company on the Execution Date necessary to cause the Company to own, hold by easement or lease Property covering the entire Site, including fee ownership of the sites for the Project substation(s) and the O&M Building and easements in accordance with Section 4.6(a) for any electric lines, including the gen-tie line from the Project substation to the Point of Interconnection, and all Interconnection facilities). Subject to redaction of any financial or other confidential information, Seller shall provide to Buyer, as promptly as practicable after receipt thereof, copies of (including material drafts) the following:

(i) any Material Contracts and Property Agreements and all other material contracts entered into by Company in connection with the design, development, engineering, procuring, permitting, construction, installation, interconnection, testing, commissioning, ownership, maintenance or operation of the Project or the acquisition of Property, and copies of any material notices or other communication delivered to or received from the other parties to the Material Contracts or Property Agreements that affect any such Material Contracts or Property Agreement;

(ii) any Permits obtained by the Company (other than Non-Discretionary Permits) or on behalf of the Company that pertain to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning ownership, maintenance or operation of the Project;

(iii) any final or issued-for-construction design drawings, specifications and other material construction documents that define the characteristics of the Project;

(iv) any factory audits, supporting studies, scheduling information, and civil, structural and electrical engineering information and documentation, for the Project or any equipment associated therewith; and

(v) Wind Data with respect to periods after the periods covered by the Wind Data described in Schedule 6.17.

(b) On or prior to the Closing Date, if Seller desires to update the Schedules, the following provisions shall apply:

(i) [redacted]

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

(A) [redacted]

[redacted]

(B) [redacted]

(C) [redacted]

(D) [redacted]

[redacted]

a) [redacted]

b) [redacted]

(E) [redacted]

[redacted]

(F) [redacted]

a) [redacted]

Section 4.4 Site Plan; Access Rights; Document Review and Approval; Reporting.

(a) Review of Site Plan. At least sixty (60) days prior to the anticipated Firm Date, Seller shall deliver to Buyer the Site Plan (in both .kmz and .pdf formats) for Buyer's review and comment. As of the Execution Date, Seller intends for the ultimate location of the Facilities on the Site Plan to be consistent with the Facilities location layout attached hereto as Schedule 4.4(a), as modified in accordance with Prudent Industry Practices and (subject to Buyer's review right set forth herein) the design and engineering process; provided Seller shall use commercially reasonable efforts, in cooperation with Buyer, to optimize the Turbine locations so as to maximize the energy generation from the Project. Within [redacted], Buyer shall provide any comments it may have thereon, and Seller and Buyer shall thereafter work together in good faith to resolve Buyer's comments such that Buyer approves the final Site Plan (such approval not to be unreasonably withheld, conditioned or delayed). Seller shall not be required to consider any comments of Buyer that are not timely provided within such [redacted] period. Seller or the Company may revise the Site Plan prior to the Closing Date only with Buyer's prior written approval, not to be unreasonably withheld, conditioned or delayed.

(b) Inspection and Access Rights.

(i) During normal business hours and subject to reasonable prior notice to Seller, Seller shall grant Buyer and Buyer's Representatives, at Buyer's cost, access to the Site, including areas where gen-tie and Interconnection work is performed, to observe and inspect all aspects of the Work, including design and construction drawings and specifications, all Site work, and all design, development, engineering, procuring, permitting, construction, installation, testing and commissioning activities relating to the Project. Seller shall use commercially reasonable efforts to cause (A) the Turbine Supplier, and (B) the EPC Contractor, to the extent the same is providing any equipment, with respect to any of its suppliers of components and equipment with a cost in excess of [redacted], to grant Buyer and Buyer's Representatives access to their facilities to observe the manufacture and fabrication of components and to perform quality inspections. A representative of Seller shall have the right, but not the obligation, to be present during any visit by Buyer or its Representatives. Neither Buyer nor any of Buyer's Representatives shall interfere with the use or occupancy of Seller of the Site or the operation or maintenance of the Project. Buyer and Buyer's Representatives shall comply with Seller's reasonable health and safety policies and procedures, to the extent provided to Buyer in writing in advance, and comply with all federal, state, and local laws, rules, regulations, and ordinances which might in any way relate to Buyer's visit, in each case during any Site visit.

(ii) Seller shall furnish for use of Buyer's Representatives suitable space for a construction trailer on the Site with standard utilities.

(iii) Seller shall furnish or cause to be furnished to Buyer and its Representatives, at reasonable times and upon reasonable notice, such access, during normal business hours, as Buyer reasonably requests (A) to all business and operations of Seller, its Affiliates and the Company with respect to the Project and the Site, (B) to Seller's and its Affiliates' management personnel (and those of its and their Contractors and

Subcontractors) involved with the Project or the Site, (C) to participate in monthly (or other regularly scheduled) meetings with Contractors and Subcontractors involved with the Site and otherwise to observe, to the extent reasonably practicable, key discussions between Seller, or its Affiliates, and any third parties relating specifically to the Project or the Site, and (D) to all books and records and other information in the possession or control of Seller or any of its Affiliates with respect to the Project or the Site, including communications to or from any Authority respecting the Project.

(iv) Seller shall give Buyer's Site Representative at least forty-eight (48) hours' notice that any material part of the Work relating to a foundation, the substation or below ground cable splices, will be covered up or put out of view and shall afford full opportunity for Buyer's Site Representative or its designee to inspect any part of such Work which is about to be covered up or put out of view and to examine foundations before any part of the Work is placed thereon. If Seller has not given such notice timely, at Buyer's request, Seller shall cause the Company to uncover any part of such Work or make openings in or through the same as Buyer's Site Representative may from time to time direct and to reinstate and repair such part, at Seller's expense. In addition, Seller shall cause the Company or the applicable EPC Contractor to uncover any portion of the Work or make openings in or through the Work as Buyer's Site Representative may from time to time request (whether or not Buyer's Site Representative inspected the subject Work prior to such Work being covered), and the Company shall reinstate and repair such portion of the Work. The cost of such uncovering, repair, reinstatement and re-covering shall be borne by Seller unless the Scope of Work and Specifications with respect to the applicable portion of the Work have been satisfied and such portion of the Work was performed in accordance with this Agreement; provided that, if Buyer's Site Representative directs the Company or the applicable EPC Contractor to uncover any portion of the Work or make openings in or through the same after Seller has given timely notice that such part of the Work will be covered up or put out of view, Seller shall be entitled to equitable schedule relief.

(v) Buyer shall have the right to videotape, photograph or otherwise record spot footage of the Work or the Site.

(vi) The exercise by Buyer of any of its inspection rights shall not be deemed to be an approval, authorization or acceptance of any aspect of the Work by Buyer, a waiver of Buyer's rights under this Agreement or a waiver or assumption of any of Seller's obligations under this Agreement.

(c) Technical Document Review. All material preliminary and detailed plans, drawings and specifications for major equipment and components prepared or issued for review by or for the Company or by or for Seller with respect to the Project and all construction documents prepared or issued for review by or for the Company or by or for Seller with respect to the Project shall be submitted to Buyer for review and comment to confirm the same are consistent with the Scope of Work and Specifications (simultaneously with the review of such documentation conducted by the Company pursuant to the EPC Contract and the Turbine Supply Agreement) and before commencement of any fabrication, manufacture, assembly, packaging, shipment, construction, or installation with respect thereto. Buyer shall have [redacted]

[redacted] to provide comments thereon. If Buyer fails to provide comments within [redacted], such failure shall be deemed a waiver of Buyer's rights to comment upon such documents pursuant to this Section 4.4(c). Review, comment and approval by Buyer shall not relieve Seller of any of its obligations hereunder or any of the Contractors' obligations under any Major Project Document.

(d) Site Operating Plan Review. At least ninety (90) days prior to the Closing Date, Seller shall submit to Buyer the Site Operating Plan for review and approval, such review and approval not to be unreasonably withheld or delayed. Buyer shall have [redacted] after the receipt of documents to provide comments thereon. If Buyer fails to provide comments within such [redacted] period, such failure shall be deemed a waiver of Buyer's right to comment upon said documents pursuant to this Section 4.4(d). Review, comment and approval by Buyer shall not relieve Seller of any of its obligations hereunder or any of the Contractors' obligations under any Major Project Document.

(e) Major Project Document and Material Contract Review. From and after the date of this Agreement, Seller shall not, and shall cause the Company not to, (i) enter into any new Major Project Document or Road Use Agreement, or (ii) terminate, amend or modify any existing Major Project Document or Road Use Agreement (each such document in clause (i) and (ii), each a "***Subject Project Document***"), except for any Subject Project Document approved by Buyer in writing in advance, [redacted]

If Seller receives any Buyer comments to a Subject Project Document before Buyer has accepted or is deemed to have accepted the same pursuant to the following sentence, Seller shall use commercially reasonable efforts to negotiate with the applicable counterparty to incorporate such Buyer comments, and thereafter resubmit a revised draft of the Subject Project Document to Buyer. This process shall repeat until Buyer has approved (or is deemed to have approved) the Subject Project Document. If Buyer does not provide written notice of acceptance or rejection of any such Subject Project Document within [redacted] after receipt thereof, then Buyer shall be deemed to have accepted the same. The Parties agree to use commercially reasonable efforts to expedite the review, negotiation and Buyer's approval of the Major Project Documents and termination, amendment or modification of any existing Material Contracts; provided, that Buyer's [redacted] review period provided above shall apply to each draft of a Subject Project Document provided to Buyer. Without limiting Seller's other obligations under this Agreement, Seller shall use commercially reasonable efforts to negotiate each new Material Contract, other than Subordination Agreements that are recorded in the Livingston County, Illinois real property records, to be freely assignable, including by merger, to Buyer, and shall notify Buyer of any proposed counterparty to such Material Contract that refuses to permit such assignment, and shall cause the Company not to enter into any such Material Contract that is not freely assignable, including by merger, to Buyer without Buyer's prior written consent which may be withheld in Buyer's sole discretion.

(f) Property Agreement Review. From and after the Execution Date, Seller shall not, and shall cause the Company not to, enter into any new, or terminate, amend or modify any existing, Property Agreement, except for any such new Property Agreement or termination, amendment or modification of any existing Property Agreement on a form approved by Buyer in writing in advance, such approval of Buyer not to be unreasonably withheld, conditioned or delayed if such termination, amendment or modification could not reasonably be expected to have an Adverse Effect; provided, however, that if Buyer does not provide written notice of acceptance or rejection of any such new Property Agreement or termination, amendment or modification of any Property Agreement within [redacted] after Buyer's receipt thereof, then Buyer shall be deemed to have accepted the same; provided, however that Buyer's approval shall not be required for (1) any Land Contract constituting a lease or easement, or any Wind Project Neighbor Easement Agreement, that does not deviate from the form set forth on Exhibit S-1, Exhibit S-2 or Exhibit S-5, as applicable; provided further, that Buyer shall not unreasonably withhold, condition, or delay its consent for any such new Land Contract that deviates from the applicable form if such deviation could not reasonably be expected to have an Adverse Effect, or (2) an amendment to any Land Contract constituting a lease or easement that does not deviate from the form set forth on Exhibit S-3; provided, that Buyer shall not unreasonably withhold, condition, or delay its consent for any such new amendment that deviates from the applicable form if such deviation could not reasonably be expected to have an Adverse Effect. For the avoidance of doubt, deviations from the payment provisions in the forms attached as Exhibit S-1, Exhibit S-2, and Exhibit S-5 shall be deemed to have an Adverse Effect unless approved by Buyer in writing in Buyer's sole discretion. Within [redacted] after the Execution Date, Seller shall deliver to Buyer a list, on a Land Contract by Land Contract basis, reflecting all rent and payments under the Land Contracts and including with respect to, and noting which, Land Contract(s), if any, are being contemplated or pursued but are not yet executed.

(g) Accident Reporting. Seller shall promptly provide Buyer notice of any material emergencies and recordable safety incidents on the Site and as soon as practicable or available a report regarding such occurrence.

(h) Wildlife. Seller shall conduct such wildlife studies with respect to the Site, the Facilities and the Project as required pursuant to applicable Law. Seller shall use its good faith efforts to utilize best practices to assess and avoid impacts to special status species. Seller shall provide to Buyer, promptly after issuance and in any event within fifteen (15) days after Seller has actual knowledge thereof, a true and complete copy of any Wildlife Restrictions issued with respect to the Facilities.

(i) Status Reports. Promptly upon receipt thereof, Seller shall provide Buyer with all written, and all material oral, construction status reports at the same frequency they are received from the Contractors and Subcontractors, to include the following:

(i) Actual progress versus the planned progress, graphed by area (e.g. excavations, foundations, cable trenching, etc.);

(ii) Material delivery updates and status; and

(iii) Actual work hours worked, including Subcontractor personnel.

(j) Landowner and Community Reporting. Seller shall provide Buyer with copies, no less than monthly (or more frequently if reasonably requested by Buyer), of Seller's site team's tracking log of complaints (including associated outcomes and resolutions) to and from any landowners and/or members of the local community prior to Substantial Completion.

(k) Contractor Approval Process.

(i) All suppliers and vendors to the Project that may store, process, transmit or have access to Buyer's or its Affiliates' data, information or a facility, system or technology which may impact the integrity, availability or confidentiality of Buyer information or its systems, or the integrity or availability of the power grid (regardless of whether they will work on or off of the Site), which, for the avoidance of doubt, includes the Turbine Supplier, the EPC Contractor, and all Subcontractors of the Turbine Supplier and the EPC Contractor, are required to be evaluated and approved through Buyer's TPRG Process.

(ii) Except as set forth in clause (ii) below with respect to the Provisionally-Approved EPC Contractors, Seller shall not, and shall cause the Company not to, enter into a Major Project Document with a contractor that will perform any Work at the Site without Buyer's prior written consent, not to be unreasonably withheld, conditioned or delayed, after such time as Seller has delivered to Buyer the Contractor Background Information, and such other information as Buyer may reasonably request, with respect to such Contractor; [redacted]. For the avoidance of doubt, Buyer may condition its approval of any potential contractor pursuant to this clause (i) on the Company obtaining such letters of credit, parent guarantee(s) or other financial assurance as Buyer determines to be necessary based on Buyer's evaluation of such potential contractor's or its guarantor's financial condition.

(iii) The Provisionally-Approved EPC Contractors shall be subject to this clause (ii) and shall not be subject to clause (i) above. Seller may cause the Company to enter into the EPC Contract with any of the Provisionally-Approved EPC Contractors subject to the following:

(A) Except as set forth below, Seller shall cause the Company to issue a request for proposals with respect to the EPC Contract for the Project to all three Provisionally-Approved EPC Contractors. At least [redacted], before Seller or the Company issues the request for proposal for the full EPC Contract (excluding any request for proposal for a notice to proceed with a limited scope of Work), Seller shall submit to Buyer (collectively, the "***Updated Contractor Information***") (i) the most recent audited annual financial statements, and the most recent quarterly financial statements, of

[redacted], and (ii) the safety metrics of each of [redacted] that are included in the AEP Safety Criteria. Buyer shall have the right, by delivery of written notice (a "***PAC Rejection Notice***") to Seller [redacted], to reject one or more of the Provisionally-Approved EPC Contractors, or to require additional credit support from one or more of the Provisionally-Approved EPC Contractors, but only if:

a) [redacted]

b) [redacted]

c) [redacted]

If Buyer timely delivers a PAC Rejection Notice with respect to a Provisionally-Approved EPC Contractor, Seller shall not, and shall cause the Company not to, enter into an EPC Contract with such Provisionally-Approved EPC Contractor with respect to the Project without Buyer's prior written consent which may be withheld in Buyer's sole discretion.

(l) Local Approvals and Permits. Seller shall keep Buyer reasonably informed with respect to the process for applying for and obtaining any and all local and county approvals and Permits required for the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation or maintenance of the Project. Without limiting the foregoing, Seller shall (x) notify Buyer in writing (email being sufficient) at least [redacted], with respect to any such approvals or Permits, (y) allow Buyer to reasonably participate in any such process, meeting or hearing and (z) in good faith consider any recommendations with respect to such process, meeting or hearing, including comments provided with respect to any filings made in respect of such approvals and Permits.

Section 4.5 NERC Compliance Plan. Seller and Buyer, each acting reasonably, will jointly develop the NERC compliance program for the Project contemporaneously with the pre-

construction project design and engineering Work as described more fully in the Scope of Work and Specifications. The NERC compliance program shall be finalized to Buyer's satisfaction and implemented by Seller not less than sixty (60) days prior to the Closing. The NERC compliance program will include, at a minimum, the items identified in the Renewable Project Deliverable Requirements for NERC Compliance Review (GEN-4580) set forth in the Scope of Work and Specifications.

Section 4.6 Site Finalization; Title and Survey.

(a) As soon as practicable after the Execution Date, but no later than ninety (90) days prior to the earlier of (x) the Firm Date, or (y) the Firm Date Deadline, Seller shall cause the Company to obtain all additional Property rights not owned, leased or held by the Company on the Execution Date such that (i) the Property owned, leased, or held in easement (including (x) options to purchase fee ownership of the parcels where the O&M Building and Project substation will be located, (y) leasehold and easement interests with a term of not less than [redacted] (inclusive of any extension right by the Company) cover the entire Site (excluding exercise of the options to purchase fee ownership of the parcels where the Point of Interconnection, O&M Building or Project substation will be located); (ii) the Company holds good and valid easement rights for any electric line and all Interconnection facilities (provided that such easement rights shall allow for underground electric lines with a capacity in excess of 100 kV and the gen-tie line from the Project substation to the Point of Interconnection pursuant to the Land Contracts executed prior to the Execution Date and, if any new Land Contracts relating to easement rights for above-ground electrical lines or the gen-tie line are executed after the Execution Date, such Land Contracts shall create permanent easements at least one hundred and fifty (150) feet wide); (iii) such property interests (including options to purchase fee ownership of the parcels where the Point of Interconnection, O&M Building or Project substation will be located) comprise all of the real property interests and other real property rights that are necessary in connection with the development, construction, installation, interconnection, completion, ownership, operation and to the extent reasonably foreseeable, the maintenance of the Project, as applicable, in accordance with all Laws, and (iv) such property interests (including options to purchase fee ownership of the parcels where the Point of Interconnection, O&M Building or Project substation will be located) will be sufficient to enable the Project to be located, constructed, interconnected, and operated as contemplated hereunder, and provide legal and physical ingress and egress rights to and from a public right-of-way for the construction, operation and maintenance of the Project. Seller shall cause the Company to exercise the options to purchase fee ownership of the parcels where the Point of Interconnection, O&M Building and Project substation will be located no later than [redacted], or another date mutually agreed to by Buyer and Seller. All Land Contracts entered into by the Company after the Execution Date (other than with respect to Crossing Agreements, purchase options, and such Land Contracts set forth on Schedule 4.6(a)) shall be on terms no less favorable to the Company than the terms set forth in Exhibit S-1, Exhibit S-2 or Exhibit S-5, as applicable. With respect to any real property to be owned in fee by the Company, no deed or other instrument or contract pursuant to which the Company may or shall acquire title to such property shall reserve or grant any Encumbrance (including, without limitation, any purchase option, right of first refusal or other preemptive right or restriction on transfer) unless specifically approved by Buyer in writing.

(b) [Reserved]

(c) Not later than the earliest of: [redacted], Seller shall promptly and diligently deliver the following to Buyer (provided, however, with respect to clause (iii) below, such delivery to Buyer shall be as soon as possible after Seller's receipt of same on a continuous rolling basis):

(i) one or more Phase I environmental site assessments performed in accordance with ASTM E1527-21 and "all appropriate inquiries" under 40 CFR § 312, by a consultant reasonably acceptable to Buyer along with reliance letters reasonably acceptable to Buyer (if applicable), and (1) either (A) such assessments shall not identify any conditions or environmental contamination that would materially impact performance of Seller's obligations under this Agreement or (B) if any such condition or environmental contamination is indicated, Seller either (i) shall have provided to Buyer a remediation plan for investigation, removal or remediation of all such conditions and environmental contamination reasonably acceptable to Buyer, or (ii) modified the Project layout in order to exclude those areas or parcels to which such condition(s) or environmental contamination relate, (2) to the extent not included in the assessment report(s), Seller shall have provided Buyer written proof of the resolution of any Historic Recognized Environmental Conditions and Controlled Recognized Environmental Conditions identified therein, and (3) notwithstanding anything to the contrary in this Section 4.6(c)(i), such Phase I environmental site assessment(s) shall have been performed no more than 180 days before the Firm Date;

(ii) [Reserved]

(iii) the Preliminary Title Report (together with legible and complete copies, to the extent available, of any instruments that create or evidence exceptions to title to any of the Real Property or which the Title Reports require to be satisfied, released or terminated as a condition of issuing the Title Policy (the "***Exception Documents***")) and the Preliminary Survey (reflecting that the Project Property owned, leased, or held in easement by the Company covers the entire Site), along with notification to Buyer, with copy to Buyer's counsel, via email regarding delivery of same. Buyer shall, [redacted], the Exception Documents, and the Preliminary Survey, inform Seller in writing of the matters, if any, disclosed in the Preliminary Title Report and the Preliminary Survey that, in Buyer's reasonable opinion, constitute Encumbrances other than Permitted Encumbrances and to which Buyer objects (collectively, "***Title Objections***"). For the avoidance of doubt, Buyer shall have the right to object to any matter (including, without limitation, any Schedule B Exception) which, in Buyer's reasonable opinion, would individually or collectively with any other Encumbrance adversely impact the use, possession or value of the Asset to which such Schedule B Exception pertains. Buyer shall be deemed to have approved any Schedule B Exceptions and any matters disclosed in the Preliminary Survey to which Buyer does not timely object; provided, notwithstanding the foregoing or anything to the contrary herein, regardless of whether Buyer objects to the same, in no event shall Buyer be deemed to have approved (and the Permitted Encumbrances shall not include) any Schedule B Exception or other matter which is expressly excluded from the Permitted Encumbrances pursuant to this Agreement or which violates any express provision of this Agreement; and

(iv) true and complete copies of all of the Property Agreements, and all Land Contracts (exclusive of Crossing Agreements and Subordination Agreements, which may be obtained prior to the Closing Date) constituting options or agreements to acquire leasehold, easement or fee title (which options shall either have been exercised and all acquisitions consummated, or shall be exercised and all acquisitions consummated [redacted]), and Seller shall deliver to Buyer true and complete copies of fully executed (A) leases (including all amendments, affidavits, if any, and recorded memoranda thereof); (B) easements and licenses (which shall have been recorded or a memorandum thereof recorded) including all related amendments and affidavits, if any; and (C) recorded deeds, if any.

(d) After Seller's receipt of Buyer's Title Objections, Seller will use its commercially reasonable efforts to address and resolve Buyer's Title Objections to Buyer's reasonable satisfaction, and, from time to time, at such intervals as reasonably appropriate given the then existing number or materiality of outstanding updates and proximity to Closing or as reasonably requested by Buyer, Seller shall deliver to Buyer Updated Title Reports (together with legible copies of any new Exception Documents) and, as applicable, Updated Survey Sheet(s). If and to the extent that the Updated Title Reports or the Updated Survey Sheet(s) identify one or more Encumbrances other than Permitted Encumbrances that were not reflected on the Preliminary Title Report or on the Preliminary Survey delivered to Buyer pursuant to Section 4.6(c)(iii), and not reflected in prior Updated Title Reports or Updated Survey Sheet(s) provided pursuant to this Section 4.6(d), Buyer may identify the same (collectively, "***Updated Title Objections***") to Seller in writing within [redacted] after Buyer's receipt of the Updated Title Reports or Updated Survey Sheet(s), as applicable. Seller will use its commercially reasonable efforts to address and resolve Buyer's Updated Title Objections to Buyer's reasonable satisfaction and to cause the Title Company to remove or (to the extent reasonably acceptable to Buyer to cure the subject objection item) affirmatively insure over the Title Objections and Updated Title Objections in the Title Policy.

(e) Notwithstanding anything to the contrary contained in this Agreement, Seller shall cause all Encumbrances which are not Permitted Encumbrances to be released, subordinated to the Company's interest, cured or satisfied (as applicable) at or prior to Closing, and in each instance in a manner reasonably acceptable to Buyer; *provided, however,* Buyer acknowledges that any Encumbrance that is susceptible to cure by the payment of money shall in any event constitute a Permitted Encumbrance if, on or before the Closing Date, Seller (i) bonds over such Encumbrance in accordance with applicable Law and otherwise in a manner reasonably satisfactory to the Title Company and the Title Company agrees to insure over such Encumbrance in a manner acceptable to Buyer, or (ii) furnishes a letter of credit (in form satisfactory to Buyer in its reasonable discretion and from a Creditworthy Bank) in an amount equal to [redacted] and the Title Company agrees to insure over such Encumbrance in a manner acceptable to Buyer. If applicable, the letter of credit described in clause (ii) above will remain in place until Seller has cured such Encumbrance or satisfies the requirements of clause (i); *provided, however*, if Seller has not released, subordinated, cured or satisfied such Encumbrance or satisfied the requirement of clause (i) above as of the earlier of (x) the date which is [redacted] following the Closing Date, or (y) the date which is [redacted] following the commencement of an action by such claimant to foreclose or enforce such Encumbrance, Buyer may cause the Company, its successors or

assigns, to apply such security provided under clause (i) or (ii) above towards satisfying the claim (including costs of investigation, reasonable attorneys' fees and the costs or expenses to which such claimant may be entitled), and including any additional Losses incurred by the Company or Buyer with respect to such Encumbrance, and after satisfaction of all of the foregoing, return the remainder, if any, to Seller. Seller agrees to execute and deliver all documentation required for application of such security towards the cost of curing the applicable Encumbrance to Buyer's reasonable satisfaction. To the extent the costs of satisfying the claim exceed the security, Seller shall be required to indemnify and reimburse Buyer for all costs incurred over the security in satisfying the claim.

(f) For purposes of this Section 4.6, notices to Seller by Buyer or to "inform Seller" shall be satisfied by Buyer providing such notice via email to Seller's counsel involved with Section 4.6 matters, with email copy to Seller, including delivery of a spreadsheet tracker setting forth such matters.

(g) Seller shall deliver to Buyer, on or before the Site Finalization Date, the scrivener affidavit in the form of Exhibit S-3.

(h) Seller shall deliver to Buyer, on or before the Site Finalization Date, a list of Land Contracts for Real Property identifying the real property Seller expects to host Facilities by land contract number and confirming the status of the related amendment required under Section 4.6(g) above.

(i) Seller shall deliver to Buyer, on or before the Site Finalization Date, a Survey overview index sheet depicting the Property boundaries and the preliminary location of Facilities, none of which shall be located on any real property located outside of the Property boundaries unless such Facilities are capable of being relocated onto the Property.

(j) Seller shall obtain and deliver to Buyer, at least ninety (90) days prior to the Closing Date, all Subordination Agreements and all Crossing Agreements required pursuant to this Agreement;

Section 4.7 State Commission Approvals.

(a) Without limiting the provisions of Section 5.1, Buyer shall within [redacted] after the Execution Date file this Agreement with the Commissions together with a request for confidential treatment and shall diligently and in good faith and using all commercially reasonable efforts pursue the Buyer Commission Approvals. Subject to the requirements of Section 4.7(c), the form of Buyer's filings for the subject matter of the Buyer Commission Approvals and the conduct by Buyer of any proceedings related to the Buyer Commission Approvals, including the redactions to this Agreement for the form hereof that will be publicly available, any public statements, meetings with stakeholder groups, settlement or appeals, related to or arising from such filings shall be determined in the sole discretion of Buyer and Buyer shall not be required to consult with or obtain Seller's consent thereto. Buyer shall keep Seller reasonably informed of any material developments, meetings, discussions or other communications with a Commission or with any other Authority with respect to such filings and the Buyer Commission Approvals; provided, however, that Seller shall not make any public

statements regarding such filings, engage in discussions with any Commission or stakeholder groups, participate in meetings with any Commission or stakeholder groups, or intervene in related proceedings, in each case, without Buyer's consent, with respect to the Buyer Commission Approvals. Seller shall provide such information and assistance in the filings and review process as is reasonably requested by Buyer.

(b) [Reserved.]

(c) Buyer and Seller acknowledge that, in the course of the regulatory proceedings contemplated by this Section 4.7 and Section 4.8, as well as in other State and Federal regulatory proceedings, it will be necessary to share Buyer Confidential Information and Seller Confidential Information with regulatory authorities and parties to regulatory proceedings. Buyer consents to such disclosure of Buyer Confidential Information, provided that Buyer takes reasonable steps to seek protection of all such Buyer Confidential Information and all such Seller Confidential Information. Seller consents to such disclosure of Seller Confidential Information, provided that Buyer takes reasonable steps to seek protection of all such Buyer Confidential Information and all such Seller Confidential Information. Notwithstanding the provisions of the preceding sentence, Buyer and Seller acknowledge that the rulings of the regulatory authorities (or, as applicable, courts of competent jurisdiction) will be determinative of whether, and the extent to which, such information is protected from public disclosure. Any information that any regulatory Authority decides should not be, or is not, protected from public disclosure shall no longer be considered Buyer Confidential Information or Seller Confidential Information (as applicable) for the purposes of this Agreement.

Section 4.8 FERC Approvals.

(a) Without limiting the provisions of Section 5.1, (a) subject to Buyer's review and approval rights hereunder, Seller shall use commercially reasonable efforts to cause the Company to enter into the Interconnection Agreement and the Interconnection Construction Service Agreement(s) and (b) within [redacted] after the Company's receipt of the final, fully executed Interconnection Agreement or Interconnection Construction Service Agreement(s) for the Project, Seller shall use commercially reasonable efforts to cause the Transmission Provider to file such agreements with FERC to the extent that Transmission Provider determines that it is required to file either such agreement pursuant to 18 C.F.R. §35.1(g).

(b) Both before and after the Closing, Seller shall provide Buyer with such information with respect to the Project, including information concerning the cost of the Facilities and components thereof, that Buyer reasonably requests to support (i) Buyer's submission to FERC of a proposed rate schedule to receive payment for the capability to provide reactive power to Transmission Provider pursuant to Schedule 2 of Transmission Provider's Open Access Transmission Tariff (or any applicable successor or replacement Schedule or Tariff amount), which provides that Transmission Provider shall pay each generation resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by FERC, and (ii) Buyer's prosecution to successful completion of the FERC proceedings related to such proposed rate schedule, including issuance by FERC of an Order accepting or approving a rate schedule authorizing such payments to Buyer.

Section 4.9 Financing; Cooperation.

(a) [redacted] (the "***Financing***"). For the avoidance of doubt, Financing does not include any funding from Seller's Affiliates. If Seller delivers notice to Buyer that it intends to seek Financing, then Seller shall use commercially reasonable efforts to close the Financing on or before the Firm Date, and the following provisions shall apply:

(i) Seller shall use commercially reasonable efforts to obtain such Financing in aggregate amounts, and on terms and conditions, sufficient for Seller to complete the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project in accordance with its obligations to Buyer under this Agreement;

(ii) Seller shall keep Buyer reasonably informed of any material developments with respect to the Project which could reasonably be expected to materially adversely affect Buyer's rights and interests in and to this Agreement or the Project, including providing Buyer with copies of any written notices of default or of events or conditions that with notice or lapse of time will result in any default, delivered by any Financing Party under the Construction Loan Agreement; and

(iii) from and after the date of this Agreement until the earlier of the Financial Close Date or the termination of this Agreement in accordance with Article XII, Buyer shall use its commercially reasonable efforts to cooperate with Seller in connection with the arrangement of the Financing (or any replacements thereof) as and to the extent provided in, and subject to Seller's rights in this Section 4.9, including the negotiation, execution and delivery of the Consent and Recognition Agreement; provided, that in responding to any request by the Financing Agent for documents, Buyer shall have no obligation to provide any document that adversely affects any of Buyer's rights, benefits, risks or obligations under this Agreement or any Ancillary Agreement or with respect to the Company or the Project; and

(iv) Seller shall deliver to Buyer a copy of the permitting opinion it obtains for the Financing Parties in connection with the Financing, if any, and shall either have such permitting opinion delivered to Buyer as an additional recipient or shall obtain a reliance letter in Buyer's favor and acceptable to Buyer in connection therewith, and, to the extent the Construction Loan Agreement requires delivery of an independent engineer report to the Financing Parties, Seller shall provide a copy of such independent engineer report to Buyer.

(b) Regardless of whether Seller funds its obligations hereunder with Financing, internal funds or some combination thereof, no later than [redacted] prior to the Firm Date Deadline, Seller shall provide to Buyer a certificate, duly executed by the Chief Financial Officer or Treasurer of [redacted] in the form of Exhibit EE (such certificate the "***Financial Assurance Certificate***").

Section 4.10 Wind Project Neighbor Easement Agreements. Beginning within thirty (30) days after the Firm Date and continuing until the Closing, Seller shall use commercially reasonable efforts, in accordance with the Neighbor Easement Agreement Plan and the Neighbor Easement Agreement Budget, to attempt to cause the Company to obtain from the Required Neighbor Easement Landowners Wind Project Neighbor Easement Agreements, which preclude the Required Neighbor Easement Landowners from granting rights to develop a wind energy generation project to any Person other than the Company, *provided, however,* and for the avoidance of doubt, Seller shall have no obligation to obtain any such Wind Project Neighbor Easement Agreements and the receipt of any Wind Project Neighbor Easement Agreement shall not be a condition to Closing. Further, at and subject to the occurrence of the Closing, Buyer shall reimburse Seller for Seller's reasonable and documented out-of-pocket expenses incurred in accordance with the Neighbor Easement Agreement Budget in obtaining all such Wind Project Neighbor Easement Agreements. Notwithstanding the foregoing, Seller shall not be required to comply with this Section 4.10 unless and until such time, if any, as Buyer and Seller agree in writing upon a Neighbor Easement Agreement Plan (including the Required Neighbor Easement Landowners) and a Neighbor Easement Agreement Budget. All Wind Project Neighbor Easement Agreements entered into by the Company after the Execution Date shall be on terms no less favorable to the Company than the terms set forth in Exhibit S-5.

Section 4.11 Intended Tax Treatment.

(a) Buyer and Seller intend for the Project to be treated as originally Placed in Service by Buyer for all federal, state and local income tax purposes and agree to file all federal, state and local income tax returns in a manner consistent with such intention, unless required by a final determination, within the meaning of Section 1313 of the Code, to the contrary. Consistent with the foregoing, neither Seller nor any Affiliate of Seller will (i) take a position on any Tax Return that is inconsistent with the Project being Placed in Service by Buyer and the "original use" (within the meaning of Section 48 of the Code) of the Project and any property that is part of the Project, including the Company Assets, commencing with Buyer, or (ii) claim on any Tax Return any depreciation or amortization deductions, ITCs or any other tax credits or deductions that are available with respect to ownership or operation of the Project or any property that is part of the Project, including the Company Assets.

(b) Prior to the Closing Date, neither Seller nor any Affiliate of Seller will engage in any action or fail to take any action that it knows or reasonably should know would adversely affect the eligibility of the Project for, or the receipt by Buyer or any of its Affiliates of, the ITC.

Section 4.12 Events of Force Majeure; Seller Excusable Events.

(a) The term "***Force Majeure***", as used in this Agreement, means any event which wholly or partly prevents or delays the performance of any obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party affected, (ii) such event, despite the exercise of reasonable diligence, cannot be prevented, avoided or overcome by such Party, (iii) the Party affected has taken all reasonable precautions and measures pursuant to Prudent Industry Practices in order to avoid the effect of such event on such Party's ability to perform its obligations under this Agreement and to

mitigate the consequences thereof, and (iv) such event is not the direct or indirect result of a Party's negligence or the failure of such Party to perform any of its obligations under this Agreement or to comply with applicable Law. A Force Majeure event may include any of the following (but only if and to the extent such event meets the requirements of (i) – (iv) above): (A) acts of God or the public enemy, war, whether declared or not, blockade, insurrection, riot, civil disturbance, public disorders, rebellion, violent demonstrations, revolution, sabotage or terrorist action; (B) any effect of unusual natural elements, including fire, subsidence, earthquakes and Abnormal Weather Conditions; (C) environmental and other contamination at or affecting the Project; (D) explosion, accident or epidemic; (E) governmental action or inaction; (F) general strikes, lockouts or other collective or industrial action by workers or employees, or other labor difficulties; (G) the unavailability of labor, fuel, power or raw materials, the breakdown of the Project or the individual Facilities or other plant breakdown or equipment failure, and any event affecting the ability of any supplier (including under any engineering, procurement or construction agreement for the Project) to the Project or the individual Facilities to fulfill its obligations to Seller and the Project so long as, in each case, the cause thereof otherwise would qualify as a Force Majeure; (H) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine; (I) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials; (J) epidemic, pandemic, quarantine or outbreak of disease (including impacts, consequences or effects on a Party arising out of the COVID-19 pandemic, which may be considered an event of Force Majeure to the extent such impact, consequence or effect were not reasonably foreseeable on the Execution Date); and (K) air crash, shipwreck, train wrecks or other failures or delays of transportation. The lack of money or changes in market conditions shall not constitute a Force Majeure.

(b) Notwithstanding anything to the contrary in Section 4.12(a), a Party shall not be entitled to Force Majeure relief for weather events or conditions other than Abnormal Weather Conditions, and Abnormal Weather Conditions shall not qualify as conditions or events of Force Majeure except as follows:

(i) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions bears the burden of proving that Abnormal Weather Conditions occurred and the entitlement to an extension of time therefor. A Party may only be granted an extension of time for Abnormal Weather Conditions that (1) are of a severe enough nature that (a) (i) safe performance of the scheduled Work is prevented or substantially hindered, or (ii) an experienced contractor, exercising Prudent Industry Practices and performing comparable work under comparable conditions would cease performance of the affected Work; and (b) with respect to any day on which such Abnormal Weather Conditions exist for at least four (4) consecutive hours when Work affected by the Abnormal Weather Conditions is scheduled to be performed, or (2) result in material, documented damage to Assets of the Project that delays the Work. The requirements of clauses (i) – (iv) of Section 4.12(a) must also be satisfied.

(ii) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions is only entitled to an extension of time for any delay attributable to the Abnormal Weather Conditions. If part or all of the delay could have

been avoided by commercially reasonable measures, the Party is not entitled to an extension for such periods of time.

(iii) The Party asserting a condition or event of Force Majeure as a result of Abnormal Weather Conditions shall comply with all of the requirements of Section 4.12(c) for each day of Abnormal Weather Conditions.

(c) Buyer shall not be responsible or liable for any delay or failure in its performance under this Agreement (other than the obligation to make payment of amounts due and payable under this Agreement), nor shall any delay, failure, or other occurrence or event become a breach or Default hereunder, to the extent such delay, failure, occurrence or event is substantially caused by conditions or events of Force Majeure, provided that: (i) Buyer gives Seller prompt, and in any event within [redacted] after Buyer has actual knowledge of the occurrence of the Force Majeure, written notice describing the particulars of the occurrence of the Force Majeure; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) Buyer proceeds with reasonable diligence to remedy its inability to perform and provides monthly progress reports to Seller describing actions taken to end the Force Majeure; and (iv) when Buyer is able to resume performance of its obligations under this Agreement, Buyer shall give Seller prompt written notice to that effect. Except as otherwise expressly provided for in this Agreement, the existence of a condition or event of Force Majeure shall not relieve Buyer its obligations under this Agreement (including payment obligations) to the extent that performance of such obligations is not precluded by the condition or event of Force Majeure.

(d) Upon the occurrence of any Seller Excusable Event, Seller shall use commercially reasonable efforts to mitigate the effects of the Seller Excusable Event, resume normal performance of this Agreement within the shortest time commercially reasonable and continue to perform its obligations under this Agreement insofar as they are not affected by the Seller Excusable Event. Seller shall give Buyer prompt written notice when Seller is able to resume performance of its obligations under this Agreement.

(e) If Seller considers that a Seller Excusable Event has occurred which may affect performance of its obligations under this Agreement, the following shall apply to any such Seller Excusable Events [redacted]:

(i) Seller shall promptly, [redacted] notify Buyer in writing thereof stating the full particulars (to the extent then known) (a "***Seller Excusable Event Notice***"), including (i) the obligations that are affected thereby and identifying the estimated period during which performance may be delayed or prevented, and (ii) the particulars of the program to be implemented to resume normal performance hereunder and to minimize the potential adverse effect on the performance of the Work resulting from such Seller Excusable Event. In the event Seller fails to submit a Seller Excusable Event Notice as to a Seller Excusable Event within the aforementioned [redacted] period, Seller shall be deemed to have waived its right to make any claim as to such Seller Excusable Event for any period between the expiration of such [redacted] period

and the date on which Seller delivers a Seller Excusable Event Notice to Buyer with respect to such Seller Excusable Event. For any ongoing Seller Excusable Events, Seller shall provide updates to Buyer regarding the foregoing at least monthly, unless Buyer and Seller mutually agree in writing on a longer period.

(ii) If Seller considers that any Seller Excusable Event has caused, or is likely to cause, a delay that directly or indirectly results in a critical path delay in the Work, it shall so state as such in the applicable Seller Excusable Event Notice or, if not known to Seller at the time the applicable Seller Excusable Event Notice is delivered by Seller, Seller shall notify Seller of such delay and the expected impact on the critical path of the work promptly, and in any event within [redacted] after Seller has actual knowledge that such delay to the critical path of the work has occurred or is likely to occur, and shall promptly thereafter reasonably demonstrate to Buyer (i) that the critical path of the Work was so affected or is likely to be affected, (ii) that the activity claimed to have been delayed was in fact delayed by the Seller Excusable Event or is likely to be delayed by the Seller Excusable Event, and (iii) to the extent known by Seller at the time of the notice, the number of days Seller was delayed, or is likely to be delayed, in the performance of such critical path of the Work due to such Seller Excusable Event. For ongoing Seller Excusable Events, Seller shall provide updates to Buyer regarding the foregoing at least monthly, unless Buyer and Seller mutually agree in writing on a longer period. If Seller demonstrates to the reasonable satisfaction of Buyer that the claimed Seller Excusable Event materially affected the critical path of the Work and Seller's ability to achieve Mechanical Completion by the Outside Date or Substantial Completion by the Guaranteed Substantial Completion Date, then Seller shall be entitled to the relief described in Section 4.12(f).

(iii) Notwithstanding anything to the contrary, Seller shall not be entitled to any relief hereunder for any such Seller Excusable Event to the extent (A) such Seller Excusable Event results from or relates to (i) the negligence, intentional breach, or willful misconduct of Seller, (ii) the failure of Seller to comply in any material respect with any of its obligations under, or a material breach by Seller this Agreement, or (iii) the violation by Seller of any Law or Permit, whether now or hereafter in effect, or (B) Seller fails to use reasonable commercial efforts to mitigate the effects of such Seller Excusable Event.

(f) Upon mitigation of the Seller Excusable Event, Seller and Buyer shall enter into a mutually agreed upon written amendment to this Agreement reflecting an adjustment to the Outside Date, the Guaranteed Mechanical Completion Date, or the Guaranteed Substantial Completion Date, as applicable, and subject to Section 4.12(e)(i) (if Seller did not timely deliver a Seller Excusable Event Notice) to account for material delays to the critical path of the Work resulting from the Seller Excusable Event. For the avoidance of doubt, (i) in no event shall any Seller Excusable Event result in an extension of the Outside Date beyond the Drop Dead Date, (ii) in no event shall any Seller Excusable Event that occurs before the Mechanical Completion Date result in any extension of the Guaranteed Substantial Completion Date unless such Seller Excusable Event continues after the Mechanical Completion Date and Seller complies with the

requirements of this Section 4.12 in connection therewith, and (iii) in no event shall a Seller Excusable Event entitle Seller to an extension of the Drop Dead Date.

Section 4.13 No Sales of Test Power; Placement in Service. Notwithstanding anything in the Agreement to the contrary, prior to the Closing, the Company may perform testing solely to the extent required to achieve Mechanical Completion resulting in the generation of electric energy, but (a) Seller shall not, and shall cause the Company to not, sell, transmit or otherwise deliver any power from the Project to any other Person, and (b) Seller shall not, and shall cause the Company and the EPC Contractors to not, permit the Project to be Placed in Service or synchronized to the transmission grid without Buyer's prior written approval given after the Closing, which may be withheld, conditioned or delayed in Buyer's sole discretion.

Section 4.14 Project Insurance Requirements. Seller shall obtain and maintain in full force and effect through the Substantial Completion Date, or any applicable later date set forth on Schedule 4.14, insurance policies meeting the requirements set forth in Schedule 4.14 with respect to Seller and the Company; provided, that the builder's risk policy shall be issued to the Company and shall provide that it is assignable by the Company to Buyer upon the Closing.

Section 4.15 O&M Building Substantial Completion. Seller shall cause the O&M Building Substantial Completion Date to occur no later than [redacted] prior to the Closing Date. Seller shall ensure that the EPC Contract (BOP) conforms to the SOW designs and specifications with respect to the O&M Building. Buyer shall have the exclusive right to occupy and use the O&M Building from and after the O&M Building Substantial Completion Date; provided, that Buyer shall provide Seller and the applicable Contractors' reasonable access to the O&M Building for purposes of completing MC Punch List Items and SC Punch List Items with respect to the O&M Building, or to perform work necessary to achieve Substantial Completion or Final Completion, so long as such access does not unreasonably interfere with Buyer's use of the building.

Section 4.16 Delay Liquidated Damages.

(a) In the event Mechanical Completion has not occurred on or before the Guaranteed Mechanical Completion Date, liquidated damages ("***MC Delay Liquidated Damages***") in favor of Buyer will accrue at the rate of [redacted]. Such MC Delay Liquidated Damages shall be payable from Seller to Buyer at the Closing as a reduction in the Closing Payment paid from Buyer to Seller on the Closing Date.

(b) In the event Substantial Completion has not occurred on or before the Guaranteed Substantial Completion Date, liquidated damages ("***SC Delay Liquidated Damages***") in favor of Buyer will accrue at the rate of [redacted]. Such SC Delay Liquidated Damages shall be payable from Seller to Buyer on the Substantial Completion Payment Date as a reduction in the Substantial Completion Payment paid from Buyer to Seller on the Substantial Completion Payment Date (or paid by Seller to Buyer on the Substantial Completion Payment Date, to the extent the SC Delay Liquidated Damages are not fully recovered by Buyer through a reduction in the Substantial Completion Payment).

(c) In no event shall (i) the aggregate of all MC Delay Liquidated Damages exceed an amount equal to [redacted] and (ii) the aggregate of all Delay Liquidated Damages exceed an amount equal to [redacted].

Section 4.17 Final Completion. Pursuant to the terms and conditions of this Agreement [redacted], Seller shall cause Final Completion to occur no later than [redacted] after the Substantial Completion Date.

Section 4.18 Warranty.

(a) To the extent not included in the Major Project Documents previously delivered to Buyer, Seller shall contractually require "first tier" Contracts with original manufacturers and vendors of third party materials, accessories, supplies, parts, services and products or any software to (x) permit Seller to provide Buyer with copies of Contracts, warranties and other obligations of such manufacturers and vendors and (y) if any such warranties or indemnities is for the benefit of Seller or its Affiliates (other than the Company), assign or grant to the Company all warranties and indemnities of such manufacturers and vendors, including the right to indemnification from claims related to those products or services, in instances in which such warranty or indemnity does not pass through to the end-user by its terms.

(b) To the extent not included in the Major Project Documents previously delivered to Buyer, Seller shall obtain the contractual right to (i) provide Buyer with copies of Contracts and any warranties and other obligations of the original manufacturer or vendor of third party materials, accessories, supplies, parts, services and products or any software licensed by a third party, and (ii) if any such warranty or indemnity is for the benefit of Seller or its Affiliates (other than the Company), Seller shall, and shall obtain the contractual right to, assign to the Company or otherwise cause the original manufacturer or vendor to grant to the Company all warranties and indemnities provided by such manufacturer or vendor, including the right to indemnification from claims related to those products or services, in each case as set forth in the applicable Major Project Document.

(c) Seller shall cause all Contractors to Major Project Documents to provide a warranty that conforms to the Required Project Warranty.

Section 4.19 [Reserved].

Section 4.20 AEP Supplier Code of Conduct.

(a) Seller shall, and shall cause the Company to, (i) comply with the AEP Supplier Code of Conduct, and (ii) use commercially reasonable efforts to comply with any updated version AEP Supplier Code of Conduct provided to Seller; [redacted]

(b) Seller shall, and shall cause the Company to, contractually require counterparties to Major Project Documents to comply with the AEP Supplier Code of Conduct (and to use commercially reasonable efforts to comply with any updated version provided to Seller) in all such Contracts with respect to the Project;

Section 4.21

(a)

(b)

(c)

(d)

[redacted]

Section 4.22 PWA Requirements.

(a) [redacted]

(b) [redacted]

(i) [redacted]

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

(v) [redacted]

[redacted]

(c) [redacted]

(i) [redacted]

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

(A) [redacted]

(B) [redacted]

(C) [redacted]

(D) [redacted]

(E) [redacted]

(F) [redacted]

(G) [redacted]

(v) [redacted]

(A) [redacted]

(B) [redacted]

(vi) [redacted]

(vii) [redacted]

(d) [redacted]

(i) [redacted]

[redacted]

(ii) [redacted]

(iii) [redacted]

(iv) [redacted]

(e) [redacted]

(f) [redacted]

[redacted]

(g) [redacted]

(h) [redacted]

(i) [redacted]

Section 4.23 Domestic Content. The Parties acknowledge and agree that Seller has no obligation to cause the Project to comply with the Domestic Content Requirements as of the Execution Date. If either Party desires for the Project to comply with the Domestic Content Requirements, such Party shall deliver notice requesting the same to the other Party, and thereafter the Parties shall work in good faith to (i) determine whether the development strategy for the Project can be revised to cause the Project to comply with the Domestic Content Requirements, and, if so, (ii) negotiate and execute an amendment to this Agreement to memorialize a requirement for Seller to cause the Project to comply with the Domestic Content Requirements; provided, notwithstanding anything to the contrary in this Agreement, if the Parties are unable to mutually agree on the form of such amendment prior to the date that is [redacted] prior to the Firm Date Deadline, then neither Party shall have any further obligations under this Section 4.23.

ARTICLE V
OTHER PRE-CLOSING COVENANTS

Section 5.1 Consents and Reasonable Efforts. Buyer and Seller shall use their commercially reasonable efforts to obtain, or to assist in obtaining, all consents, approvals, transfers, permissions, waivers, orders, reissuances and authorizations of (and make all necessary filings or registrations with) all Authorities and other third parties which are required to be obtained or made by them in connection with the consummation of the transactions contemplated by this Agreement or in connection with the Project. Seller shall assist Buyer in identifying and obtaining all consents, approvals, permissions and waivers necessary under the Material Contracts or the Permits held by the Company as of the Closing Date (to the extent required for the assignment or transfer of such Material Contract or Permit from the Company to Buyer as a result of the Assets Distribution to Buyer or Merger) to facilitate Buyer's implementation of the Assets Distribution to Buyer or Merger on the Closing Date, including, without limitation, obtaining the approval of any applicable Authority to the transfer of the Project or any Permit from the Company to Buyer, provided that Seller shall not be required to incur any out-of-pocket costs (unless Buyer agrees to reimburse Seller therefor) in connection with such duties as they relate to Permits other than the Special Use Permit issued by Livingston County, Illinois, if such consents, approvals, permissions or waivers are necessary solely as a result of the Assets Distribution to Buyer or Merger (but not required in connection with the consummation of the other transactions contemplated by this Agreement or in connection with the Project). In furtherance thereof Seller shall cause the Company to include in all of the Company's Contracts customary provisions that allow the assignment of such Contract to an Affiliate of the Company and allow a merger of the Company with an Affiliate of the Company, in each case without the consent of or prior notice to the other party or parties thereto. Each Party agrees to, and agrees to cause its Affiliates and its and their respective Representatives to, consult and reasonably cooperate with and provide reasonable assistance to the other Party hereto in (i) defending against all Actions challenging this Agreement or the consummation of the transactions contemplated hereby, and (ii) appealing or otherwise lifting any Order (including any permanent or preliminary injunction or restraining order or other similar order) that restrains, enjoins or otherwise prohibits or makes illegal the consummation of the transactions contemplated by this Agreement. The Parties do not contemplate that approval for the transactions contemplated hereby will be required under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, will be required; however, if a filing for approval thereunder is required the Parties shall share equally the filing fees therefor.

Section 5.2 Restrictions on Actions. Seller shall not, and shall cause the Company not to, take any of the following actions without the prior written consent of Buyer:

(a) sell, lease, license, assign, transfer or dispose of (including transfers to Seller or any Affiliate) any Company Assets other than (with respect only to this Section 5.2(a) and without limiting the other consent requirements of this Section 5.2) in the Ordinary Course of Business in connection with any casualty, or to the extent obsolete or no longer needed;

(b) make any material change in the accounting methods used by Seller for the Company, except as required by GAAP;

(c) merge, combine or consolidate the Company with any other entity;

(d) merge, combine or consolidate Seller with any other entity to the extent (i) it would result in Seller failing to maintain the Required Credit Support pursuant to Section 5.6 and (ii) the Required Credit Support is not replaced within the time periods specified in Section 5.6;

(e) permit Company to (i) create, incur or assume any Indebtedness other than that which is satisfied and released in full prior to the Closing; (ii) mortgage, pledge or otherwise encumber, incur or suffer to exist any Encumbrance on any of its properties or Assets, except for Permitted Encumbrances, (iii) create or assume any other Indebtedness, except accounts payable and other liabilities incurred in the Ordinary Course of Business, (iv) guaranty any Indebtedness of another Person or enter into any "keep well" or other agreement to maintain any financial condition of another Person, or (v) make any loans, advances or capital contributions to, or investments in, any other Person;

(f) redeem or repurchase, directly or indirectly, any Equity Securities of the Company or declare, set aside or pay any dividends or make any other distributions, except cash distributions, with respect to any Equity Interest in the Company;

(g) issue, sell or transfer any Equity Interest in the Company except (i) pursuant to, or in connection with, the pledge of any such Equity Interests to the Financing Parties as collateral with respect to the Financing and (ii) pursuant to, or in connection with, the exercise of remedies by all or any of the Financing Parties with respect to the Financing;

(h) permit Company to acquire (by merger, consolidation or acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division thereof or collection of assets constituting all or substantially all of a business or business unit;

(i) make or change any method of accounting with respect to Taxes, make or change any income or other material Tax election, file any amended Tax Return (other than sales and use or personal property Tax Returns), enter into any closing or similar agreement, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment, in each case, related to the Company or its Assets;

(j) change or authorize any change in the Corporate Documents of the Company;

(k) hire any employee, or adopt any Benefit Plan, or incur any Liability under any Benefit Plan, in each case, for the Company;

(l) undertake any recapitalization, reorganization, liquidation, dissolution or winding up on behalf of the Company, or not maintain the Company's existence as a limited liability company;

(m) permit Company to engage in any line of business other than the continued design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project;

(n) (i) enter into any Contract that would be included in the definition of Material Contract if it had been entered into as of the Execution Date, or (ii) terminate or materially amend, modify or waive any material right under, any Material Contract, in each case, except as expressly permitted herein;

(o) (i) enter into any Contract that would be included in the definition of Property Agreement if it had been entered into as of the Execution Date, or (ii) terminate or materially amend, modify or waive any material right under, any Property Agreement, in each case, except as expressly permitted herein;

(p) enter into any Contract or accept the issuance of any Permit that requires the Company to have in place credit support (i.e. cash deposit, letter of credit, guaranty, etc.), in each case, that would remain outstanding after the Closing Date, except as expressly permitted herein;

(q) fail to obtain, maintain or renew all necessary Permits required for the Business of the Company;

(r) agree or accept any terms or conditions with respect to the issuance of any Permit for the Company or Project that would, or would reasonably be expected to, limit the operation of, or increase the costs of owning, operating or maintaining the Project;

(s) with respect to the Company or the Project, fail to comply, in all material respects, (i) with all applicable Laws, or (ii) with the terms of all Material Contracts and Property Agreements.

(t) fail to maintain all records of the Company consistent with past practice;

(u) settle or initiate any Action with respect to the Company or the Project in a manner that would be contrary to Prudent Industry Practices;

(v) sell, assign, or otherwise transfer any RECs or Environmental Attributes to any Person;

(w) defer any payment obligations of the Company under the Interconnection Construction Service Agreement(s) or Interconnection Agreement;

(x) enter into any Contract that provides for any payment required to be made by the Company after the Closing Date, unless (i) Buyer has approved such Contract pursuant to the terms of this Agreement or (ii) all such payments are Excluded Liabilities and the sole responsibility of Seller pursuant to this Agreement;

(y) enter into any shared facilities agreement; or

(z) commit or agree orally or in writing to do any of the foregoing.

Nothing in this Section 5.2 shall in any way restrict Seller or its Affiliates from causing the Company to (i) use cash for the purposes of effecting lawful payments as required in connection

with the construction, development, operation and maintenance of the Project, (ii) settle obligations between the Company and any of their respective Affiliates in accordance with Section 5.4, (iii) comply with applicable Law or the requests of Authorities with respect to the Project or the Company, or (iv) take any other action required by this Agreement.

Section 5.3 Notification of Completion or Failure of Conditions. Each Party to this Agreement will promptly notify the other Party of any satisfaction or failure of conditions under this Agreement; and each Party shall keep the other Party reasonably apprised with respect to the status of satisfaction of the notifying Party's obligations hereunder.

Section 5.4 Intercompany Obligations. At or prior to the Closing, Seller shall cause all intercompany account obligations (including Indebtedness) between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be settled by either causing such accounts and obligations to be (a) paid and discharged, including by netting of payables and receivables involving the same parties, or (b) cancelled without Seller or the Company paying any consideration therefor, [redacted]. In addition, other than the Ancillary Agreements, any Contracts listed on Schedule 5.4, or as otherwise authorized by Buyer in writing prior to the Closing Date, Seller shall cause all intercompany Contracts between the Company, on the one hand, and Seller or any of its Affiliates (other than the Company), on the other hand, to be terminated and (i) neither Seller, nor any Affiliate of Seller, shall have any surviving rights or obligations under any Contract between the Company, on the one hand, and Seller or any other Affiliate of Seller (other than the Company) on the other hand and (ii) the Company shall not have any surviving obligations under any such Contract.

Section 5.5 No Negotiations. From and after the Execution Date and prior to the Closing, Seller shall not, and shall cause its Affiliates and Representatives not to, initiate or solicit, directly or indirectly, any inquiries or the making of any proposal with respect to, engage in negotiations concerning, provide any confidential information or data to any Person with respect to, have any discussions with any Person (except with Buyer and the Financing Parties or any other Person following a default and exercise of remedies under the Construction Loan Agreement or security documents entered into in connection therewith) or enter into any letter of intent or similar document or any written agreement or commitment relating to, an Acquisition Proposal and shall immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted prior to the date hereof with respect to any of the foregoing. If Seller or its Affiliates or Representatives receives any Acquisition Proposal from any Person, Seller will not engage in any discussions with such Person with regard to such Acquisition Proposal.

Section 5.6 Seller Credit Support.

(a) On the Execution Date, Seller shall deliver to Buyer a Seller US Parent Guaranty [redacted] which shall remain in place until the Firm Date when it shall be released and be replaced with the Seller US Parent Guaranty described in Section 5.6(b). Within [redacted] after the Execution Date, Seller shall deliver to Buyer a Letter of Credit in an amount equal to [redacted], which Letter of

Credit shall remain in place until the Firm Date and be replaced with the Letter of Credit described in Section 5.6(b).

(b) On the Firm Date, Seller shall deliver to Buyer (i) a Seller US Parent Guaranty [redacted] (and the Seller US Parent Guaranty delivered pursuant to Section 5.6(a) shall be released on the Firm Date except as to valid claims made thereunder), which shall remain in place until the Closing Date and be replaced with the Seller US Parent described in Section 5.6(c) and (ii) a Letter of Credit in an amount equal to [redacted] (and the Letter of Credit delivered pursuant to Section 5.6(a) shall be released on the Firm Date except as to draws made thereunder), which Letter of Credit shall remain in place until the Closing Date and be replaced with the Letter of Credit described in Section 5.6(c).

(c) On the Closing Date, Seller shall deliver to Buyer (i) a Letter of Credit in an amount equal to [redacted] (and the Letter of Credit delivered pursuant to Section 5.6(b) shall be released on the Closing Date except as to draws made thereunder), which Letter of Credit shall remain in place until the date specified in Section 5.6(e); (ii) the Seller French Parent Guaranty [redacted]; and (iii) a Seller US Parent Guaranty [redacted] (and the Seller US Parent Guaranty delivered pursuant to Section 5.6(b) shall be released on the Closing Date except as to valid claims made thereunder). In addition to the foregoing, on the Closing Date, Seller shall deliver to Buyer [redacted]

(d) The Seller Parent Guaranties and the applicable Letter of Credit required to be outstanding at any time pursuant to clause (a), (b) or (c)(i) of this Section 5.6, are referred to herein collectively as the "***Required Credit Support***". If a breach of Seller's obligations under this Agreement [redacted] has occurred, then in addition to any other remedy available to it, Buyer may draw on the Required Credit Support provided, in such amounts as Buyer may, in its sole discretion, determine, and in any sequence that Buyer may select. Any failure of Buyer to draw upon any such Required Credit Support shall not prejudice Buyer's rights to recover damages or other amounts in any other manner. Seller will bear all costs associated with providing the Required Credit Support. With notice and Buyer's written consent,

which may be withheld in Buyer's discretion, Seller may replace a Letter of Credit comprising all or part of the Required Credit Support by using a different Creditworthy Bank.

(e) The Letter of Credit described in Section 5.6(c)(i) shall remain in place until the later of (i) [redacted] and (ii) [redacted]

(f) With respect to any and all Letters of Credit that Seller causes to be provided hereunder, Seller shall be required to replace any such Letter of Credit upon a Letter of Credit Default with a conforming Letter of Credit within [redacted] after receiving written notice from Buyer to do so, otherwise Buyer shall have the right to draw immediately upon any such Letter of Credit. With respect to the Seller Parent Guaranties, Seller shall be required to replace any such Seller Parent Guaranty upon a Seller Parent Guaranty Default with respect to such Seller Parent Guaranty with a Letter of Credit [redacted] after receiving written notice from Buyer to do so, otherwise Buyer shall have the right to draw immediately upon the Seller Parent Guaranties.

(g) Any amount drawn pursuant to Section 5.6(f) shall be returned to Seller upon the earlier to occur of (i) replacement of the Letter of Credit by Seller at a Creditworthy Bank and (ii) the later of (x) [redacted] and (y) the date on which all claims made under Section 11.2(a) as of the Closing Date have been fully and finally resolved and all amounts due to Buyer have been paid.

Section 5.7 [redacted]

Section 5.8 Project Document Credit Support Obligations. On or before the Closing Date, Buyer shall provide to the appropriate beneficiary replacement deposits, guaranties, letters of credit, bonds, indemnities or other credit assurance of a comparable and sufficient nature (including cash posted as credit support), in each case executed solely by Buyer as may be required, in substitution for those Project Document Credit Support Obligations, to the extent such Project Document Credit Support Obligations remain outstanding as of the Closing Date; provided that, with respect to any cash deposits posted as credit support, Buyer shall provide to Seller such replacement credit support.

Section 5.9 Labor Agreements. To the extent that any Contractor to a Major Project Document that is performing any portion of the Work enters into a project labor agreement or agreements

with one or more Building and Construction Trade Unions, or is party to a national maintenance agreement with any Building and Construction Trade Union (the "***Labor Agreements***"), Seller shall cause such Contractor furnish a copy of such Labor Agreements to Buyer at least thirty (30) days prior to commencing physical construction work on the Project.

ARTICLE VI
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer, as of the Execution Date, the Firm Date, and as of the Closing Date, as follows; provided, however, that to the extent any representation and warranty is specified as being given only as of a specific date, such representation and warranty shall be deemed to be made only as of such date:

Section 6.1 Corporate Existence and Powers. Seller is a limited liability company validly existing and in good standing under the Laws of the State of Delaware, and is duly qualified or licensed to do business in each other jurisdiction where the actions to be performed by it under this Agreement and the Ancillary Agreements to which it is a party make such qualification or licensing necessary. Seller has all the requisite limited liability company power and authority to conduct its business with respect to the ownership of the Purchased Interests and the ownership, leasing and operation of the Project. Seller's Corporate Documents are in full force and effect. Seller is not in material violation of any of its Corporate Documents.

Section 6.2 Company Existence and Powers. The Company is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware, and has all the requisite limited liability company power and authority to conduct its Business as it is now being conducted and to design, develop, engineer, procure, permit, construct, install, test, commission, own, maintain and operate the Project. The Company is duly qualified or licensed to do Business in each jurisdiction in which the ownership or operation of the Company Assets makes such qualification or licensing necessary. The Company has been engaged in no other business since its formation other than the development of the Project. Seller has Made Available to Buyer true and complete copies of the Company's Corporate Documents and such Corporate Documents are in full force and effect and have been maintained in accordance with good business practice. The Company is not in violation of any of its Corporate Documents.

Section 6.3 Authority; Ownership of Company. Subject to receipt of the Seller Approvals, Seller has all requisite limited liability company power and authority to execute and deliver this Agreement and each Ancillary Agreement to be executed by it in connection with this Agreement and to perform the obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Seller has taken all limited liability company action necessary to execute and deliver this Agreement and the Ancillary Agreements, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Seller is necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Seller and, as of the Closing, the Ancillary Agreements to be executed by Seller will be duly executed and delivered by Seller.

Assuming the due authorization, execution and delivery of this Agreement and the Ancillary Agreements by Buyer and each other party thereto, this Agreement and, as of the Closing, the Ancillary Agreements, as applicable, will constitute legally valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by general equitable principles.

Section 6.4 Consents and Approvals. Except for Company Permits and Non-Discretionary Permits or as otherwise set forth in Schedule 6.4 (such items listed on Schedule 6.4 are referred to herein as the "***Seller Consents***"), no consent, approval or authorization of, Permit from, declaration, filing or registration with, or notice to, any Authority or any other Person, is required to be made or obtained by (i) Seller in connection with the execution, delivery, performance and validity of this Agreement and the Ancillary Agreements to be executed by it and the consummation of the transactions contemplated hereby and thereby, or (ii) the Company in connection with the execution, delivery, performance and validity of this Agreement and the Ancillary Agreements to be executed by it and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

Section 6.5 No Conflicts. Neither the execution, delivery and performance by Seller of this Agreement or the Ancillary Agreements to be executed by it nor the transfer of rights and consummation of the transactions contemplated hereby or thereby or the taking of any action contemplated to be taken by the Company under this Agreement and the Ancillary Agreements to be executed by it will result in (a) a violation or breach of or a conflict with (with our without notice or lapse of time, or both) any provision of Seller's or the Company's Corporate Documents; (b) a Default under any Material Contract, Property Agreement or Company Permit; (c) a material violation or breach (with or without notice or lapse of time, or both) by the Company or Seller of any applicable Laws or Permits, or (d) the creation or imposition of any Encumbrance on (i) the Company Assets (other than Permitted Encumbrances) or (ii) the Purchased Interests.

Section 6.6 Legal Proceedings. Other than as described in Schedule 6.6, there are no Actions, including with respect to labor relations, or material Orders pending or, to Seller's Knowledge, threatened in writing, against or affecting the Project, the Company, the Company Assets or the Purchased Interests or Seller's transfer of the Purchased Interests or consummation of the transactions contemplated hereby.

Section 6.7 Compliance with Law. Other than as set forth on Schedule 6.7, neither Seller nor the Company has received any written notification indicating any violation of, or non-compliance with, any applicable Law (including all applicable U.S. and international economic and trade sanctions, including any sanctions or regulations administered and enforced by the U.S. Department of State, the U.S. Department of the Treasury (including the Office of Foreign Assets Control) and any applicable executive orders, rules and regulations relating thereto, export control and trade sanctions or embargoes, anti-boycott prohibitions contained in 50 U.S.C. Sections 2401 et seq. and Section 999 of the Code), Order or Permit as such would apply to the Project, the Company, the Company Assets, the Purchased Interests or the transactions contemplated hereby, nor to Seller's Knowledge are there any facts, events, circumstances or occurrences that would reasonably be expected to give rise to, or serve as a basis for, any notification of any material violation of, or material non-compliance with, any such Law, Order or Permit.

Section 6.8 Environmental Matters. Other than as set out in Schedule 6.8: (i) the Company is, and since its formation has been, in compliance with applicable Environmental Laws and all Permits issued thereunder in all material respects; (ii) [reserved]; (iii) none of Seller, the Company or Seller's other Affiliates has any Liabilities, or is subject to any Order, under Environmental Laws relating to the Company Assets and they are in material compliance with all Environmental Laws applicable to the Project and the Company Assets; (iv) neither Seller, the Company nor Seller's other Affiliates has received any written notice (including any written request for information, demand, inquiry, subpoena, complaint or claim) and there are no pending or, to Seller's Knowledge, threatened Actions relating to or alleging a material violation of or liability under Environmental Laws pertaining to the Project or the Company Assets; (v) there has not been a Release of Hazardous Materials by Seller, the Company or, to Seller's Knowledge, any other Person, on or otherwise affecting the Property or the Real Property and, to Seller's Knowledge, no Hazardous Materials are present in, on, about or migrating to or from such properties, nor have the Seller, the Company, Seller's other Affiliates, or any of their respective contractors or subcontractors, generated, stored, disposed of or Released any Hazardous Materials at, on, from or under such properties, in any case with respect to which could reasonably be expected to give rise to any material liability to the Company under any Environmental Law; (vi) the Property and the Real Property are not subject to any Encumbrance imposed under any Environmental Law by any Authority in connection with the presence on or off such property of any Hazardous Material; (vii) no portion of the Property or the Real Property contains any above ground or underground storage tank, landfill, surface impoundment or similar device used for the management of wastewater or any Hazardous Material that could reasonably give rise to any material liability to the Company under any Environmental Law; (viii) the Facilities are sited or planned to be sited outside of "Important Bird Areas" as identified by the National Audubon Society; and (ix) Seller has Made Available copies of all material documents related to compliance with Environmental Laws to Buyer. The inclusion of this Section 6.8 with respect to certain environmental matters shall in no event limit any other representation and warranty in this Article VI with respect to any environmental matters as to which such other representation and warranty may apply, including, those in Sections 6.5, 6.7, 6.10 and 6.14 (which shall be deemed to cover Permits necessary under Environmental Law).

Section 6.9 Right and Title to Purchased Interests. On the Execution Date and the Firm Date, Seller is the direct owner, holder of record, and beneficial owner of, and has good, valid and marketable title to, all of the Purchased Interests, free and clear of all Encumbrances, other than Permitted Encumbrances. On the Closing Date, Seller is (and following the Closing, Buyer shall be) the direct owner, holder of record, and beneficial owner of, and has good, valid and marketable title to, all of the Purchased Interests, free and clear of all Encumbrances. On the Closing Date, other than the pledges of the Purchased Interests as collateral security pursuant to the terms of the Construction Loan Agreement, Seller has not done or suffered to be done anything whereby the Purchased Interests are or may be in any manner encumbered or charged by, through or under Seller or an Affiliate of Seller; provided that such pledges of the Purchased Interests (pursuant to the terms of the Construction Loan Agreement) and any Encumbrance related thereto shall have been fully terminated and discharged on or before the Closing Date. As of each of the Financial Close Date (if applicable) and the Closing Date, there are no Equity Securities held by any third party in respect of the Purchased Interests and the Company has not granted to any Person (other than Buyer) any Equity Securities in respect of the Purchased Interests (other than solely as to the Financial Close Date, the pledge of the Purchased Interests as collateral security pursuant to the

terms of the Construction Loan Agreement). On the Financial Close Date (if applicable) and the Closing Date, Seller has the right, and limited liability company power and authority, to transfer and deliver to Buyer, and Buyer shall own (of record and beneficially) following the Closing, all direct and indirect right, title and interest in the Purchased Interests, free and clear of all Encumbrances. Except for the Purchased Interests, there are no outstanding Equity Securities in the Company. On the Financial Close Date (if applicable) and the Closing Date, except for the security documents entered into concurrently with the Construction Loan Agreement, if applicable (any Encumbrance related to which shall be discharged with respect to the Purchased Interests and the Company Assets on or before the Closing Date), and none of the Equity Securities in the Company is subject to any voting trust, member or partnership agreement or voting agreement or other agreement, right, instrument or understanding with respect to any purchase, sale, issuance, transfer, repurchase, redemption or voting of any Equity Securities in the Company.

Section 6.10 Right and Title to Company Assets. As of the Closing Date, the Company owns all valid and legal right, title and interest in, to and under the Company Assets (other than the Land Contracts to which Company owns all right, title and interest as of the Firm Date and the Closing Date), free and clear of all Encumbrances other than Permitted Encumbrances.

Section 6.11 Land Contracts. Schedule 6.11(a) contains a true, correct and complete list of all of the Land Contracts that exist as of the Execution Date. As of the Execution Date, the Firm Date and the Closing Date, Seller has Made Available to Buyer, true, correct and complete copies of the then-effective Land Contracts together with all amendments, modifications, or supplements thereto and written notices issued pursuant or related thereto, all of which are listed and described on Schedule 6.11(a) attached hereto, as updated on each of the Site Finalization Date, the Firm Date and the Closing Date in accordance with Section 4.3(b). As of the Firm Date and the Closing Date (unless another date is specified, in which case, as of such date):

(a) each Land Contract is (i) in full force and effect, (ii) is legal, valid, binding and enforceable against Company in accordance with its terms, and (iii) to Seller's Knowledge, is an enforceable obligation of the other party or parties thereto, except (in the case of clauses (ii) and (iii)) as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by general equitable principles;

(b) (i) none of Seller, the Company, or Seller's other Affiliates, is in Default under any Land Contract to which it is a party, (ii) to Seller's Knowledge, no other party to any Land Contract is in Default, (iii) to Seller's Knowledge, no event has occurred which, with notice or lapse of time or both, would constitute a Default thereunder by Seller, the Company, Seller's other Affiliates or any other party thereunder, and (iv) none of Seller, the Company, or Seller's other Affiliates has received written notice of any such Default or event;

(c) none of Seller, the Company, or Seller's other Affiliates, has repudiated any provision of any Land Contract, and neither Seller nor the Company has received written notice from any party to any Land Contract that such other party has repudiated any provision thereof;

(d) none of Seller, the Company, or Seller's other Affiliates, has received (i) written notice of any unfulfilled duties under any Land Contract or (ii) written notice of

termination, cancellation, or non-renewal as to any Land Contract, and to Seller's Knowledge, no party to any of the Land Contract has exercised or threatened to exercise any termination rights with respect thereto;

(e) no Land Contract has been (i) transferred or conveyed by Seller, the Company, or Seller's other Affiliates (other than a transfer or conveyance to the Company); (ii) amended, modified or supplemented except as disclosed in writing to Buyer, and approved by Buyer in writing; or (iii) as of the Closing Date, subjected to any Encumbrance, except for Permitted Encumbrances;

(f) as of the anticipated Closing Date, all Subordination Agreements and all Crossing Agreements required pursuant to this Agreement have been obtained;

(g) the Company is a party to each of the Land Contracts; and

(h) Schedule 6.11(h) is a true and correct list, on a Land Contract by Land Contract basis, reflecting any deviations from the approved terms set forth in Exhibit S-1 and Exhibit S-2, as applicable with respect to the ongoing percentage rents, rents, royalties, fees, and other payments due after the Closing Date under the applicable Land Contract. For the avoidance of doubt, and without limiting the generality of the foregoing, Schedule 6.11(h) shall include all rents and other payments under each Wind Project Neighbor Easement Agreement.

Section 6.12 Real Property.

(a) As of the Execution Date, the Site Finalization Date, the Firm Date, and the Closing Date, except for the Company's rights under the Land Contracts as set forth on Schedule 6.12(a), (i) the Company does not own real property, nor is the Company a lessor or sub-lessor of any real property, (ii) the Company is not a party to any Contract regarding real estate or an interest in real estate, other than the Land Contracts set forth on Schedule 6.11(a); and (iii) neither Seller nor any Affiliate of Seller or the Company owns any real property that is used in connection with the Project.

(b) As of (i) the Site Finalization Date, and the Firm Date, other than the items listed on Schedule 6.12(b), (ii) the Mobilization Date, and (iii) the Closing Date, the Company has obtained all other zoning and land use approvals from the applicable Authorities for each parcel of Property necessary to permit the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance and operation of the Project thereon in accordance with the terms of this Agreement, the Site Plan, and the Site Operating Plan, and Seller has not received any written notice of any violation of Laws with respect to the Facilities or the Property. To Seller's Knowledge, as of the Firm Date and the Closing Date there is no pending Action before any Authority to change the applicable zoning, land use or building ordinances or any other Laws or applicable land use approvals affecting the Property.

(c) As of the Site Finalization Date, the Firm Date, and as of the Closing Date, to Seller's Knowledge, no party has the right to use the surface of the Property for the exploration, development or extraction of minerals or any other subsurface substances, except to the extent (i) affirmatively insured against by the Title Policy (or which will be affirmatively insured against by the Title Policy in a manner reasonably acceptable to Buyer at Closing and for which all

underwriting requirements of the Title Company with respect to the issuance of applicable coverage have been satisfied as of the Closing Date) with applicable coverage in form and substance reasonably satisfactory to Buyer, and (ii) if any such right is subject to a surface use, non-disturbance or accommodation agreement with Company or Seller, such agreement is in form and substance reasonably satisfactory to Buyer. There are no existing or, to Seller's Knowledge, proposed facilities or operations for extraction of oil, gas or other minerals that to Seller's Knowledge would reasonably be expected to adversely interfere with the construction, completion or operation of the Project in any material respect.

(d) As of the Closing Date, except as set forth on Schedule 6.12(a), neither Seller (as related to the Project or the Company Assets) nor the Company owns, holds, is obligated under, or is a party to, any option, right of first refusal, or other contractual right to purchase, acquire, sell, assign, or dispose of any real property or interest therein, except pursuant to the Land Contracts.

(e) Neither Seller, the Company, nor any of Seller's other Affiliates, has received any written notice of any pending or threatened condemnation action with respect to all or any portion of the Real Property, and, to Seller's Knowledge, there are no existing or threatened condemnation or other legal proceedings affecting the use of the Real Property by an Authority with jurisdiction over or affecting all or any part of the Real Property.

(f) As of the Firm Date, the Site Plan as revised by any updates thereto that Seller has provided to Buyer represents a true, accurate, and complete depiction of the Project and the Buffer Zone. As of the Mobilization Date and the Closing Date, the Site Plan as revised by any updates thereto that Seller has provided to Buyer represents a true, accurate and complete depiction of the Project and the Buffer Zone. As of no later than ninety (90) days prior to the anticipated Closing Date, and as of the Closing Date: (i) the location and operation of the Facilities are in material compliance with all applicable Laws and rules and regulations promulgated by the applicable equipment manufacturers (including but not limited to, any and all setback and capacity requirements), (ii) the Interconnection Rights pursuant to the Interconnection Agreement and the Interconnection Construction Service Agreement(s) will be sufficient for the Company to transmit all of the power generated by the Project, except that the Interconnection Agreement limits the Project to delivering a maximum of 255 MWac at any time; (iii) the Project will have sufficient backfeed available to complete start up and commissioning activities commencing immediately after the Closing; (iv) the Project will have sufficient (including physical and legal) access to dedicated public road to meet all construction, repair, and operational needs of the Project (including but not limited to, transportation of equipment to the Site and access to each of the Facilities for purposes of installation, repair, and maintenance); (v) the Project (including any related transmission or distribution lines connected thereto) is or will be authorized to cross any existing restrictive easements (including but not limited to, existing oil and gas pipelines and existing utility transmission and distribution lines) pursuant to existing Crossing Agreements and the Company will have obtained any other Crossing Agreements as may be required by the Title Company in order to issue an ALTA 36.6 endorsement to the Title Policy, and (vi) as of the Firm Date and the Closing Date, each land parcel subject to a Land Contract will be contiguous along at least one entire boundary to the boundary of another land parcel subject to a Land Contract, except for the land parcels on which (x) no Facilities will be located, (y) a portion of the gen-tie line will be located or (z) the O&M Building will be located; provided, however, that those land

parcels on which a portion of the gen-tie line will be located will be contiguous along at least a portion of a boundary with a portion of a boundary of another land parcel subject to a Land Contract.

(g) As of [redacted] after the Firm Date and as of the Closing Date, the Company will either (i) own the fee interests in the parcels on which the Point of Interconnection and O&M Building will be located and the parcel on which the Project substation for the Project is to be located, and, in each case, will have paid the purchase price or other applicable consideration therefor or (ii) in the case of the parcel(s) on which the Point of Interconnection will be located, have transferred such parcel(s) to the Transmission Owner.

(h) As of the Site Finalization Date, the Firm Date, and the Closing Date, the Property owned, leased, or held in easement by the Company (i) covers the entire Site (including fee ownership of the parcels where the Point of Interconnection, O&M Building and Project substation will be located), (ii) comprises all of the real property interests and other real property rights that are necessary in connection with the development, construction, installation, interconnection, completion, ownership, operation and to the extent reasonably foreseeable, the maintenance of the Project, as applicable, in accordance with all Laws, and (iii) is sufficient to enable the Project to be located, constructed, interconnected, and operated as contemplated hereunder; and provide legal and physical ingress and egress rights to and from a public right-of-way for the construction, operation and maintenance of the Project. All Land Contracts entered into by the Company after the Execution Date (other than with respect to Crossing Agreements, purchase options, and Land Contracts set forth on Schedule 4.6(a)), shall be on terms no less favorable to the Company than the terms set forth in Exhibit S-1, and Exhibit S-2, as applicable, unless specifically approved by Buyer in writing. With respect to any real property owned in fee by the Company, no deed or other instrument or contract pursuant to which the Company acquired or agreed or elected to acquire title to such property reserves or grants any Encumbrance (including, without limitation, any purchase option, right of first refusal or other preemptive right or restriction on transfer) other than as specifically approved by Buyer in writing.

(i) All Wind Project Neighbor Easement Agreements entered into by the Company after the Execution Date are on terms no less favorable to the Company than the terms set forth in Exhibit S-5, unless specifically approved by Buyer in writing.

Section 6.13 Material Contracts.

(a) Schedule 6.13(a) contains a true, correct and complete list of all Contracts (other than the Land Contracts or Permits) to which the Company is a party or by which the Company is bound, which relate primarily to the Company Assets, or which are or shall be included in the Company Assets, including each of the following Contracts (each Contract required to be listed on Schedule 6.13(a), whether in effect prior to, on or after the Execution Date, individually, a "***Material Contract***" and collectively, the "***Material Contracts***"), and Seller has Made Available to Buyer a correct and complete copy of each such Material Contract:

(i) Major Project Documents;

(ii) other than the Service and Maintenance Agreement to be entered into by and between Buyer and the Turbine Supplier or an Affiliate thereof, any Contract for the operation or maintenance of the Project or any of the individual Facilities after the Closing Date;

(iii) any Contract relating to the interconnection of the Project, including the Interconnection Agreement and any Interconnection Construction Service Agreement;

(iv) (x) any Contracts that are or evidence Indebtedness owed by the Company or to the Company or (y) any Contracts that provide for the Company to provide any surety, pledge, guarantee, bond, letter of credit or other credit support, in each case, which Indebtedness or other obligation will remain in effect after the Closing Date;

(v) any Contracts for a commodity, currency or interest rate hedge, exchange or similar instrument, including any exchange traded, over-the-counter or other swap, cap, floor, collar, futures contract, forward contract, option or other derivative financial instrument, or Contract relating to emissions allowances, emission offsets or credits, renewable energy credits, production or investment tax credits, or other tax credits or benefits;

(vi) Contracts governing a partnership, joint venture, joint development or limited liability company, setting forth arrangements between the members or partners thereto, other than the Corporate Documents of the Company;

(vii) Contracts that are (a) power purchase or sale agreements (including sales of capacity, energy and ancillary services), renewable energy credit purchase and sale agreements or interconnection or transmission agreements, shared facilities agreements, common facilities agreements, or (b) turbine purchase agreements, balance of plant, design, engineering, procurement and construction agreements, agreements for the purchase of transformers, breakers and other material pieces of equipment, project management agreements, development agreements, warranty agreements, operation, maintenance and service agreements, agreements that provide for teaming or similar agreements in connection with the development of the Project and exclusivity agreements with any contractor, turbine manufacturer, or other supplier, utility, contractor, or other third party, in each case of those Contracts in clause (b), which Contract will remain in effect after the Closing Date;

(viii) any Contract that includes a change in control clause (requiring consent to the transaction contemplated herein) and for which Seller has not obtained such consent from the applicable counterparty;

(ix) any Contract under which the consequences of a Default by the Company that is not waived or cured within the time, if any, provided in such Contract would reasonably be expected to have a Material Adverse Effect;

(x) any Contract the primary purpose of which is for the Company to indemnify, defend, hold harmless or reimburse any Loss incurred by another Person;

(xi) any Contract that was not entered into in the Ordinary Course of Business of the Company;

(xii) any Contract pursuant to which the Company is granting or being granted any material Intellectual Property license;

(xiii) any Contract not otherwise described in this Section 6.13 providing for an express undertaking by the Company to be responsible for (a) consequential or special damages, or (b) liquidated damages or other penalties;

(xiv) any Contract containing an effective power of attorney granted by the Company;

(xv) any Contract the primary purpose of which is the settlement, release, compromise or waiver by the Company of any material rights or claims it has against any other Person or any material Liabilities of any other Person to the Company;

(xvi) any Contract relating to the retention of any consultant of the Company that is performing ongoing services for the Company or with respect to which any amounts remain to be paid by the Company, which services will be performed after the Closing Date;

(xvii) any Contract not otherwise described in this Section 6.13 containing any obligation of confidentiality or nondisclosure between the Company, on the one hand, and any other Person, on the other hand, for the benefit of the Company or such other Person, which Contract will remain in effect after the Closing Date;

(xviii) Contracts that include non-competition, non-interference, non-solicitation, exclusivity or similar provisions which restrict the ability of the Company (or Buyer after the Closing) to conduct the Business;

(xix) Contracts for the sale of tax credits;

(xx) Contracts that are otherwise material to the Business and to which the Seller, Company, or any of its Affiliates is a party;

(xxi) any Contract with earn-out, payments, contingent payments or similar payment obligations owing from the Company, which payment obligation will not be satisfied as of the Closing Date;

(xxii) any Crossing Agreement and any Subordination Agreement;

(xxiii) Contracts, other than those set forth in the foregoing clauses (i) through (xvi), each of which expressly requires future payment after the Closing Date to or from the Company of [redacted] or more; and

(xxiv) any Contract constituting an amendment, supplement, or modification (whether oral or written) in respect of any of the foregoing clauses (i) through (xxii).

Subject to Section 4.3(b) and all other obligations, requirements, limitations, and any review and approval rights under this Agreement with respect to Material Contracts, and upon obtaining Buyer's consent or approval as otherwise required under this Agreement with respect thereto, Seller shall provide an updated Schedule 6.13(a), and shall have Made Available all Material Contracts, on the Firm Date and the Closing Date.

(b) Each Material Contract is (i) legal, valid, binding, and enforceable against Company in accordance with its terms, (ii) in full force and effect, and (iii) to Seller's Knowledge, each Material Contract is an enforceable obligation of the other party or parties thereto, except (in the case of clauses (i) and (iii)) as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by general equitable principles.

(c) (i) There is no Default by Seller or the Company under any Material Contract, (ii) to Seller's Knowledge, there is no Default by any other party to any Material Contract, (iii) to Seller's Knowledge, no event has occurred which, with notice or lapse of time or both, would constitute a Default thereunder by Seller, the Company or any other party thereunder, and (iv) neither Seller, the Company, nor any of Seller's other Affiliates has received written notice of any such Default or event.

(d) Neither Seller, the Company, nor any of Seller's other Affiliates has repudiated any provision of any Material Contract and neither Seller, the Company, nor any of Seller's other Affiliates has received written notice that any other party has repudiated any provision of any Material Contract.

(e) Neither Seller, the Company, nor any of Seller's other Affiliates has received written notice of any termination, cancellation, or non-renewal as to any Material Contract, and to Seller's Knowledge, no other party to any of the Material Contracts has exercised or threatened to exercise any termination rights with respect thereto, in each case, which Material Contract (i) was expected to be in effect after the Closing Date and (ii) has not been replaced by the Closing Date.

(f) Neither Seller, the Company, nor any of the Seller's other Affiliates, has received notice of any right or intent on the party of any other Party to a Material Contract to dispute any amount to be paid by such party under such Material Contract.

(g) Except as set forth on Schedule 6.13(g), neither Seller, the Company, nor any of Seller's other Affiliates has a material outstanding claim or cause of action (including relating to availability), whether for liquidated damages or other monetary damages or otherwise, under any Material Contract. As of the Firm Date and the Closing Date, neither Seller, the Company, nor any of Seller's other Affiliates has received written notice of any claim or cause of action (including relating to availability) against it, whether for liquidated damages or other

monetary damages, under any Material Contract, which claim or cause of action creates any outstanding obligation of the Company after the Closing Date.

(h) As of the Firm Date and the Closing Date, no Material Contract has been (i) transferred or conveyed by the Company to another Person, except for any Material Contract that has been replaced, (ii) amended, modified, or supplemented, except as disclosed in writing to Buyer, or (iii) subjected to any Encumbrance, except for Permitted Encumbrances.

(i) Neither Seller, the Company, nor any of Seller's other Affiliates has received written notice of any material disputes in effect as to any Material Contract except as set forth on Schedule 6.13(i).

(j) There are no outstanding indemnification claims or payments, purchase price payments or purchase price adjustments (including earn-outs and similar post-closing adjustments) to be made to or by any Person with respect to the Project or Project assets for which the Company is liable.

Section 6.14 Permits.

(a) Schedule 6.14(a) is a true and complete list of all Permits needed by Company to design, develop, engineer, procure, permit, construct, install, test, commission, own, maintain and operate the Project through the Substantial Completion Date (collectively, the "***Company Permits***") and all Non-Discretionary Permits, provided the Company Permits shall not include Permits which Buyer may need by nature of Buyer being a public utility or which may be obtained only by Buyer for itself or for the Company with respect to the ownership or operation of the Project after the Closing (collectively, the "***Buyer Permits***"), or Seller Consents. Part A of Schedule 6.14(a) is a true and complete list of all Company Permits and Non-Discretionary Permits required under Law to be obtained on or before the Execution Date. Part B of Schedule 6.14(a) is a true and complete list of all Company Permits and Non-Discretionary Permits required under Law to be obtained after the Execution Date, but on or prior to the Firm Date. Part C of Schedule 6.14(a) is a true and complete list of all Company Permits and Non-Discretionary Permits required under Law to be obtained after the Firm Date, but on or prior to the Closing Date. Part D of Schedule 6.14(a)is a true and complete list of all Company Permits and Non-Discretionary Permits required under Law to be obtained after the Closing Date, but on or prior to the Substantial Completion Date (the "***Substantial Completion Permits***"). As of the Execution Date, all Company Permits and Non-Discretionary Permits listed on Part A of Schedule 6.14(a), have been obtained and Made Available to Buyer. As of the Firm Date, all Company Permits and Non-Discretionary Permits listed on Part B of Schedule 6.14(a), have been obtained and Made Available to Buyer. As of the Closing Date, all Company Permits and Non-Discretionary Permits listed on Part C of Schedule 6.14(a), have been obtained and Made Available to Buyer. As of the Firm Date, all the Company Permits and Non-Discretionary Permits listed on Part C of Schedule 6.14(a) are reasonably expected to be issued and in full force and effect as of the Closing Date. As of the Closing Date, all the Company Permits and Non-Discretionary Permits listed on Part D of Schedule 6.14(a) are reasonably expected to be issued and in full force and effect as of the Substantial Completion Date.

(b) (i) As of the Execution Date, with respect to each Company Permit listed on Part A of Schedule 6.14(a), (ii) as of the Firm Date, with respect to each Company Permit listed on Part A (to the extent required to be in effect as of the Firm Date) or Part B of Schedule 6.14(a) and (iii) as of the Closing Date, with respect to each Company Permit listed on Part A or Part B (in each case to the extent required to be in effect as of the Closing Date), or Part C, of Schedule 6.14(a), except for Non-Discretionary Permits and as set forth on Schedule 6.14(b):

(i) each Company Permit required at the applicable stage of design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation is, to Seller's Knowledge, valid, binding and enforceable against the applicable issuing Authority in accordance with its terms, in full force and effect and final and unappealable.

(ii) Company and the Project are in material compliance with the terms and conditions of each Company Permit, and, to Seller's Knowledge, all other parties to each Company Permit are in material compliance with the terms and conditions of such Company Permit, and, to Seller's Knowledge, no event has occurred which with notice, lapse of time or both would constitute non-compliance with such terms and conditions or cause any material and adverse modification, revocation, suspension or termination of any Company Permit.

(iii) No Action, deficiency notice, demand or notice of any challenge is pending or, to Seller's Knowledge, threatened, which challenges the legality, validity, or enforceability of any Company Permit, or that attempts to modify in any material and adverse manner the requirements pertaining to any obtained Company Permit or application for a Company Permit.

Section 6.15 Finders. Except as set forth in Schedule 6.15, Seller has not engaged any broker or finder in connection with this transaction and no Person has any claim against Seller or the Company for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement.

Section 6.16 Intellectual Property. As of the Closing Date, the Company owns or possesses sufficient rights to use all Intellectual Property used or required to be used in connection with the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, operation and maintenance of the Project, free and clear of all Encumbrances other than Permitted Encumbrances, and, to Seller's Knowledge, the utilization of such Intellectual Property does not and will not infringe upon or violate the Intellectual Property rights of any other Person. Other than as set forth in Schedule 6.16, all material Company Assets are free of any third party rights relating to Intellectual Property, and, to Seller's Knowledge, the utilization by the Company of the Company Assets does not and will not infringe upon or violate the Intellectual Property rights of any other Person.

Section 6.17 Wind Data. Schedule 6.17 contains a true and complete list of all of the wind resource data in the possession of the Company in respect of the Project ("***Wind Data***"). A true, correct and complete copy of such Wind Data has been Made Available to Buyer. With respect to each item of Wind Data identified on Schedule 6.17:

(a) the Company possesses all right, title, and interest in and to the item, free and clear of any lien, security interest, encumbrance, claim, license, or other restriction;

(b) the Company has not assigned, transferred, conveyed, mortgaged, deeded in trust, or encumbered any interest in such item;

(c) there are no disputes, oral agreements, or forbearance programs in effect as to such item that, if not resolved in favor of Company, would reasonably be expected to have an Adverse Effect;

(d) the item is not subject to any outstanding injunction, judgment, order, decree, ruling or charge preventing, or that would reasonably be expected to prevent, Company to use such Wind Data;

(e) no Action, suit, proceeding, hearing, investigation, charge, complaint, claim or demand is pending or, to Seller's Knowledge, is threatened that challenges the legality, validity, enforceability, use, or ownership of the item that, if not resolved in favor of Company, would reasonably be expected to have a Material Adverse Effect.

(f) The Wind Data contained in the documents Made Available to Buyer were collected at the locations and during the times set forth in such documents. Neither Seller, the Company, nor any other Affiliate of Seller, has altered any of such Wind Data.

Section 6.18 Insurance. Schedule 6.18 sets forth a true and complete list of all insurance policies maintained by Seller or the Company that insure the Company, the Project or the Company Assets (the "***Project Insurance Policies***"). Such Project Insurance Policies are (a) all of the insurance policies required to be obtained or maintained by or on behalf of Seller or the Company under any Material Contract, Property Agreement, Company Permit, or applicable Law; (b) in full force and effect, all premiums with respect thereto covering all periods up to and including the date as of which this representation is being made have been paid, and (c) no notice of cancellation or termination has been received by the owner or holder of any such Project Insurance Policy with respect to any such policy which was not replaced on substantially similar terms prior to the date of such cancellation. None of Seller or the Company nor any of Seller's Affiliates, has Defaulted in any respect with respect to the obligations under any Project Insurance Policies to the extent any such Default could materially and adversely affect insurance proceeds or insurance available to the Project. No pending claims exist under any such policies of insurance covering the Company or the Company Assets. Except as set forth on Schedule 6.18, no Project Insurance Policy provides for any retrospective premium adjustment or other experience-based liability on the part of Seller or the Company. The builder's risk insurance policy with respect to the Project shall be issued to the Company and shall expressly provide that the builder's risk policy may be assigned by the Company to Buyer at or after the Closing.

Section 6.19 Reports. Other than engineering reports and studies solely related to a turbine layout prepared by a wind turbine vendor (other than the Turbine Supplier), Seller has Made Available to Buyer true, correct and complete copies of all then-available final material reports, studies, and tests (and all amendments and supplements thereto) related to the Project prepared, commissioned by, or delivered to, the Company, Seller or any Affiliate of Seller that address any

of the following matters: Permits, Wind Data, the Real Property, design studies, geotechnical studies, transportation studies, cultural resources studies, transmission or interconnection studies, wildlife studies, the environmental condition of the Property, mitigation and conservation plans, compliance with Environmental Law, Federal Aviation Administration analyses, state department of transportation analyses, zoning studies, noise assessments, radio facilities studies, visual impact or flicker studies or wetlands studies (collectively, the "***Reports***").

Section 6.20 Tax Matters.

(a) There are no Encumbrances for Taxes on the Purchased Interests or the Company Assets (other than Permitted Encumbrances). No proceedings are pending, and no proceedings have been threatened in writing with respect to Taxes of the Company or relating to the Project or the Company Assets. There are no ongoing or pending or threatened (in writing) Tax audits, examinations, claims, assessments or proposed deficiencies against Seller or the Company or with respect to the Project. No extensions of the statute of limitations have either been requested or granted with respect to Taxes of the Company or relating to the Purchased Interests or the Company Assets. Neither Seller (with respect to the Business, the Project or the Company) nor the Company has applied to any Tax Authority for any Tax ruling, closing agreement, technical advice memorandum or similar agreement, including any application for a private letter ruling that has been withdrawn.

(b) All Tax Returns required to be filed by the Company or with respect to the Project or Company Assets have been filed on a timely basis and all such Tax Returns are correct and complete in all material respects. All material Taxes of the Company or with respect to the Project or the Company Assets that are due and payable have been timely paid in full. Seller is not a foreign person (as that term is defined in Section 1445 of the Code and the Treasury Regulations promulgated thereunder). Since formation, the Company is and has been classified at all times as an entity disregarded as an entity separate from its owner for U.S. federal, state and local Tax purposes, and no election has been filed to treat the Company as an association taxable as a corporation for U.S. federal, state or local Tax purposes. Seller has Made Available to Buyer true and complete copies of all Tax Returns filed by or on behalf of the Company (other than any consolidated Tax Returns of Seller).

(c) The Company has complied in all material respects with all Tax laws relating to the payment, reporting and withholding of Taxes in connection with amounts paid or owing to any employee, independent contractor, creditor, or other Person. The Company has retained all required Tax exemption certificates and other documentation in respect of any material payments made by the Company for which an exemption to withholding was claimed.

(d) No more than a *de minimis* portion of the Company Assets have been previously used, except in the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, operation and maintenance activities required by the terms of this Agreement.

(e) None of the Project or any property that is part of the Project has been Placed in Service and there has been no "original use" (within the meaning of Section 48 of the Code) of the Project or any property that is part of the Project.

(f) The Company (i) has never been a member of any consolidated, combined, unitary or similar group and (ii) has no Liability for the Taxes of any Person other than the Company (A) under Treasury Regulations Section 1.1502-6 (or any similar provision of Law) or (B) as a transferee or successor, by contract or otherwise.

(g) None of the Company, the Project or the Company Assets are subject to any closing agreements, private letter rulings or similar agreements or rulings with or from by any Authority with respect to Taxes.

(h) No notice has been received in writing from any Authority in any jurisdiction in which the Company does not file a Tax Return that the Company may be subject to taxation by that jurisdiction that would be covered by such Tax Return.

(i) The Company has not filed a power of attorney with any Authority with respect to Tax matters that remains currently in force.

(j) Neither Seller (with respect to the Company) nor the Company is a party to or has any liability under any Tax allocation, Tax sharing agreement, Tax indemnity agreement or similar agreement.

(k) Neither the Project nor any other Company Asset is currently, or will be at any time on or prior to the Closing Date:

(i) subject to the alternative depreciation system within the meaning of Section 168(g) of the Code;

(ii) "tax-exempt use property" within the meaning of Section 168(h) of the Code;

(iii) imported property of the kind described in Section 168(g)(6) of the Code; or

(iv) "public utility property" within the meaning of Section 168(f)(2) of the Code.

(l) Neither the Project nor the Company has benefited (directly or indirectly) from any tax-exempt bonds within the meaning of Section 45(b)(3) of the Code.

(m) No grants or proceeds of any rebate programs have been provided by the United States, a state, a political subdivision of a state, or any other Authority for use in the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning or financing of the Project or with respect to which Seller or the Company is the beneficiary and no application with respect to any such grant or rebate has been filed or submitted. No proceeds of any issue of state or local government obligations have been used (directly or indirectly) to provide financing for the Project. Neither the Project nor the Company has benefited (directly or indirectly) from any government grants, tax-exempt financing or subsidized energy financing that was issued prior to January 1, 2009 within the meaning of Section 48(a)(4)(C) of the Code.

(n) None of Seller, the Company, nor any Affiliate of Seller has applied for, claimed or received any PTC, ITC, or other federal, state, local or other grant, financing, tax credit, or similar incentive, including any investment tax credit, production tax credit, or financing described in Section 48(a)(4) or 45(b)(3) of the Code, with respect to the Project.

(o) Neither Seller nor any Affiliate of Seller has taken, nor does Seller or any Affiliate of Seller intend to take, a position on any Tax Return that is inconsistent with the Project, including the Company Assets, being Placed in Service by Buyer and the "original use" (within the meaning of Section 48 of the Code) of the Project and any property that is part of the Project, including the Company Assets, commencing with Buyer. Neither Seller nor any Affiliate of Seller (or any direct or indirect shareholder, member, partner or owner) has claimed, nor does Seller or any Affiliate of Seller (or any direct or indirect shareholder, member, partner or owner) intend to claim, on any Tax Return any depreciation or amortization deductions, PTCs, ITCs, or any other tax credits or deductions that are available with respect to ownership or operation of the Project or any property that is part of the Project, including the Company Assets.

(p) The Company has not been a party to, or a promotor of, a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b).

(q) Neither Seller (with respect to the Company) nor the Company is a party to or has any liability under any Tax sharing, indemnification or similar agreement (in each case, other than an agreement entered into in the Ordinary Course of Business of the parties thereto, the principal purpose of which is not Tax-related, such as a customary lease, license or financing agreement).

(r) Seller (or, if Seller is a disregarded entity for U.S. federal income tax purposes, its owner for U.S. federal income tax purposes) is a "United States person" within the meaning of Section 7701(a)(30) of the Code. Seller is not a "tax-exempt person" within the meaning of Section 168(h) of the Code.

(s) Schedule 6.20(s) sets forth any Tax incentive, Tax abatement or other relief from Taxes granted to, or applied for by, the Company. All material Contracts, memoranda and other documentation related to any such Tax incentive, Tax abatement or other relief from Taxes have been provided to Buyer.

Section 6.21 Tax Credit Qualification.

(a) The Company has held the Company Assets (other than the Excluded Assets) and the Project solely for resale. Seller holds its interest in the Company and the Project (other than the Excluded Assets) solely for resale and shall, for income tax purposes, treat the Company and the Project (other than the Excluded Assets) as property described in Section 1221(a)(1) of the Code.

(b) [Reserved]

(c) (i) The Beginning of Construction Certificate (Execution Date) is true and correct in all respects as of the Execution Date, (ii) the Beginning of Construction Certificate (Firm

Date) is true and correct as of the Firm Date, and (iii) the Beginning of Construction Certificate (Closing Date) is true and correct as of the Closing Date.

(d) No PTCs, ITCs, grant under Section 1603 of the American Recovery and Reinvestment Act of 2009 or other federal Tax credit with respect to or in connection with the Project has been claimed or reported, on any Tax Returns of Seller, the Company, or Seller US Parent (or any direct or indirect shareholder, member, partner owner or Affiliate of Seller US Parent), or to Seller's Knowledge, any other Person.

(e) Less than ten percent (10%) of the fair market value of the Project consists of property that was previously used by any Person, other than in connection with the development, construction, start-up, commissioning and operation of the Project.

(f) All of the Facilities are (i) described in one or more common environmental or other regulatory permits, (ii) are constructed pursuant to a single master construction contract, and (iii) are financed pursuant to the same loan agreement or plan of financing.

(g) Each Seller PWA Compliance Certificate delivered to Buyer pursuant to Section 4.22(e) is true and correct in all respects as of the Closing Date. To Seller's Knowledge, each Subcontractor PWA Compliance Certificate and summary report of the PWA Consultant delivered to Buyer pursuant to Sections 4.22(e) and 4.22(f) is true and correct in all respects as of the Closing Date.

(h) By the time the Tax Return is filed for the year that the Project is Placed in Service, the PWA Requirements will be satisfied in all material respects with respect to the ITC Qualified Facility to allow the ITC Qualified Facility to satisfy the requirements of Code Sections 48(a)(9)(B)(iii) and 48E(a)(2)(B)(ii)(III) or any applicable PWA Guidance.

Section 6.22 Substantially Complete Project; No Other Business.

(a) As of the Closing Date, the Company Assets shall constitute all of the material Contracts, equipment, buildings, facilities, licenses, permits, approvals, land rights and other material assets necessary for the Company to own, and subject to the achievement of Substantial Completion [redacted], maintain and operate the Project in accordance with the terms and conditions of the Material Contracts, Land Contracts, Company Permits, applicable Law and Prudent Industry Practices.

(b) The Company has held the Company Assets (other than the Excluded Assets) solely for the design, development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project.

Section 6.23 Sufficient Funds.

From and after the Financial Close Date, and at all times prior to the Closing Date, Seller will have sufficient funds available, or will maintain sources for sufficient funding capacity, to meet the financial requirements from time to time required (as and when the same become due and owing, and subject to any applicable grace periods or cure periods) to continue the design,

development, engineering, procuring, permitting, construction, installation, testing and commissioning of the Project to Mechanical Completion pursuant to this Agreement (and Substantial Completion and Final Completion under this Agreement, [redacted]) and to otherwise consummate the transactions contemplated by this Agreement as and when so required thereby.

Section 6.24 Financial Statements; No Undisclosed Liabilities; Absence of Certain Changes.

(a) Financial Statements. Attached as Schedule 6.24(a) are true and correct copies of the Company's unaudited balance sheet (the "***Balance Sheet***") as of the Balance Sheet Date, and the related unaudited statement of income and cash flows for the year-to-date period then ended, each certified by an officer or authorized representative of the Company (together with the Balance Sheet, the "***Financial Statements***"). The Financial Statements (i) have been prepared in accordance with GAAP (or are accompanied by GAAP reconciliations, other than footnotes), using the same accounting principles, policies and methods as have been historically used in connection with the calculation of the items reflected thereon, and (ii) present fairly in all material respects the financial condition and operations of the Company as of the Balance Sheet Date.

(b) No Undisclosed Liabilities. The Company has no Liability that would be required to be disclosed in a balance sheet prepared in accordance with GAAP, except Liabilities (i) which have been incurred under Material Contracts since the Balance Sheet Date, (ii) reflected in the Financial Statements, (iii) incurred pursuant to this Agreement or permitted to be incurred by this Agreement, (iv) Taxes which are not yet due and payable or (v) disclosed on Schedule 6.24(b).

(c) Absence of Certain Changes. Except as set forth on Schedule 6.24(c) or as disclosed to Buyer in writing as of the Execution Date, since the Balance Sheet Date, the Company has conducted its Business and operated the Project in the Ordinary Course of Business and there has not been any Material Adverse Effect.

(d) No Indebtedness. Except for the Construction Loan Agreement, to the extent Seller obtains Financing, which shall be paid in full and terminated at or prior to the Closing, Company does not have any Indebtedness.

Section 6.25 Employees; Employee Benefits. The Company has never (a) had any employees or (b) sponsored, maintained or contributed to any Benefit Plan. There do not exist now, nor do any circumstances exist that reasonably could be expected to impose, any Liability on the Company with respect to any Benefit Plan that any Person maintains or in the past maintained (or to which such Person ever contributed or was required to contribute) if such Person, together with the Company, could be deemed a single employer within the meaning of Section 4001(b) of ERISA.

Section 6.26 Labor Matters. Except as set forth in Schedule 6.26:

(a) The Company is not nor has ever been a party to any collective bargaining agreement or other labor Contract.

(b) As of the Closing Date, there is not now pending or existing, and, to Seller's Knowledge, there is not threatened, any strike, slowdown, picketing, work stoppage, or other material labor dispute involving the Project, or the Company.

(c) To Seller's Knowledge, no event has occurred or circumstance exists that would reasonably be expected to provide the basis for any work stoppage or other material labor dispute with respect to the Project.

(d) There has not been, and there is not now pending or, to Seller's Knowledge, threatened against the Company, any material Action relating to the alleged violation of any applicable Law pertaining to labor relations, employment matters, discrimination or sexual harassment, including any charge or complaint filed with the National Labor Relations Board, the Equal Employment Opportunity Commission or any other similar Authority, and to Seller's Knowledge, no event has occurred or circumstances exist that would reasonably be expected to provide the basis for any such Action.

(e) No application or petition for an election, request for recognition, or for certification of a collective bargaining agent is pending with respect to the Project.

(f) There has not been, there is not pending or existing, and to Seller's Knowledge there is not threatened, any jurisdictional claim or dispute with respect to work performed on the Project.

Section 6.27 Investment Company Act. The Company is not an "investment company" required to be registered under, or a company controlled by an "investment company" required to be registered under, the Investment Company Act of 1940.

Section 6.28 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Seller or the Company. Neither the signing of this Agreement nor the Closing of the transactions contemplated by this Agreement and the Ancillary Agreements requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction of any reorganization or any bankruptcy Action affecting Seller or the Company.

Section 6.29 Affiliate Transactions. Except as set forth on Schedule 6.29, as of the Closing Date, none of Seller or any of its Affiliates (other than the Company) or any officer, director, manager, member shareholder, employee or agent of Seller or any of its Affiliates (other than the Company) (a) is a party to any Contract with the Company, other than bills of sale and assignment agreements transferring right, title and interest in certain Company Assets to the Company or (b) has any interest in any Company Asset used in or pertaining to the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project or the Business of the Company.

Section 6.30 Subsidiaries. The Company does not have any Subsidiaries or own Equity Securities in any Person.

Section 6.31 Bank Accounts. Schedule 6.31 contains a correct and complete list of (a) the bank accounts and safe deposit boxes of the Company, if any, and (b) the Persons authorized to sign checks drawn on such accounts, other than any such accounts that are created pursuant to the terms

of the Construction Loan Agreement. As of the Closing Date, Seller shall have taken all actions necessary to cause all of the Company's bank accounts to be closed on or before the Closing Date or as soon as possible after the Closing Date and, except as provided in Section 2.4(b), any funds in any such bank accounts will be paid to Seller or its designee.

Section 6.32 No Damage. On the Closing Date, there has been no material damage to or destruction of the Project unless such damage or destruction has been repaired such that on the Closing Date the Project satisfies the requirements applicable to achieving Mechanical Completion.

Section 6.33 Credit Support. Schedule 6.33 sets forth a true and complete list of all equity contribution agreements, letters of credit and other such guaranties, comfort letters, "*keep whole*" agreements, bonds or other financial security arrangements, or credit support arrangements that have been or will be posted by Seller or its Affiliates in connection with the Project.

Section 6.34 No Other Agreement to Sell Company Assets. Other than Contracts for the sale of unusable or immaterial Company Assets not necessary for the design, development, engineering, procuring, permitting, construction, installation, testing, commissioning, ownership, maintenance or operation of the Project, neither Seller nor the Company has any Liability to any other Person or any nonbinding agreement in principle, letter of intent or similar understanding with any Person to sell or effect a sale of all or any portion of the Purchased Interests or the Company Assets or to enter into any agreement or cause the entering into of any agreement with respect to the foregoing.

Section 6.35 Consents. As of the Closing Date, (a) there are no outstanding material third party consents, approvals, authorizations, waivers, filings, notices, registrations, declarations or similar actions of, with or by any Person which have not been previously obtained and Made Available, including those involving Real Property, Facilities, Material Contracts, Land Contracts or Company Permits, which are required for the Project to achieve Mechanical Completion or Substantial Completion, as applicable, or the completion of the transactions contemplated by this Agreement and the Ancillary Agreements, and (b) there are no outstanding material third party consents or notices required under any Major Project Document or Permit held by the Company which have not be previously obtained and Made Available, which are required for a change of control or ownership of the Project resulting from the consummation of the Assets Distribution to Buyer or Merger.

Section 6.36 FERC Matters. Seller has not (i) applied for or obtained permission from FERC under Section 205 of the Federal Power Act granting market based rate authority authorizing the Company to sell energy; (ii) sold any energy generated by the Project, including test energy; or (iii) energized the Project's interconnection facilities.

Section 6.37 Foreign Corrupt Practices Act; Export Control; Anti-Boycott Laws.

(a) Neither Seller, the Company nor any of their respective officers, directors or employees acting on behalf of Company or the Project has (i) violated any provision of any applicable anti-bribery or anti-corruption law including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the U.K. Bribery Act 2010 or (ii) directly or indirectly offered, paid, promised to pay, or authorized the offer, payment or promise of any advantage, financial or

otherwise, or thing of value to any Authority or to another party while knowing or having reason to know that all or a portion of such advantage or thing of value would be offered, given, or promised to an Authority for the purposes of (A) (1) influencing any act or decision of such Authority in his or her official capacity or (2) rewarding the improper performance by any Person of its business or official activities; (B) assisting Seller or any member of Seller in obtaining or retaining business or a business advantage for Seller or any member of Seller with respect to the Company or the Project or (C) assisting the Company in obtaining or retaining business or a business advantage for the Company.

(b) Seller and the Company have complied with all applicable U.S. and international laws related to export control and economic and trade sanctions, embargoes, or boycotts, including any sanctions or regulations administered and enforced by the U.S. Department of State, the U.S. Department of the Treasury (including the Office of Foreign Assets Control) and any executive orders, rules and regulations relating thereto. Neither Seller nor the Company has engaged in any dealings or transaction with any Person that is on the Office of Foreign Assets Control's Specially Designated Nations and Blocked Persons List.

Section 6.38 Solvency.

(a) Seller (i) has and, after giving effect to the transaction contemplated by this Agreement and the Ancillary Agreements, shall have Assets which, fairly valued, exceed its Indebtedness, Liabilities or obligations, (ii) is not engaged in any business or transaction which, after giving effect to the transactions contemplated by this Agreement and the Ancillary Agreements, will leave it with capital or Assets which are unreasonably small in relation to the business or transactions engaged in by it, and (iii) does not intend to incur, nor does it believe that it shall incur, debts beyond its ability to repay such debts as they mature.

(b) As of the date of any transfer by Seller or by any Affiliate of Seller of any Assets to the Company, such transferor (i) had Assets which, fairly valued, exceeded its Indebtedness, Liabilities or obligations, (ii) was not engaged in any business or transaction which, left it with capital or Assets which were unreasonably small in relation to the business or transactions engaged in by it, and (iii) did not intend to incur, nor did it believe that it would incur, debts beyond its ability to repay such debts as they mature.

Section 6.39 [redacted]

Section 6.40 [redacted]

[redacted]

ARTICLE VII
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller, as of the Execution Date and as of the Closing Date, as follows:

Section 7.1 Corporate Existence and Powers. Buyer is a corporation validly existing and in good standing under the Laws of the State of Virginia, and is duly qualified or licensed to do business in each other jurisdiction where the actions to be performed by it under this Agreement and the Ancillary Agreements to which it is a party make such qualification or licensing necessary. Buyer has all the requisite corporate power and authority to conduct its business as it is now being conducted and to own, lease and operate its Assets. Buyer's Corporate Documents are in full force and effect. Buyer is not in material violation of its Corporate Documents.

Section 7.2 Authority. Buyer has all requisite corporate power and authority to execute and deliver this Agreement and each Ancillary Agreement to be executed by it in connection with this Agreement and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Buyer has taken all corporate action necessary to execute and deliver this Agreement and the Ancillary Agreements, as applicable, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Buyer is necessary to authorize this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby. This Agreement and the Ancillary Agreements to be executed by Buyer have been duly executed and delivered by Buyer. Assuming the due authorization, execution and delivery by Seller of this Agreement and the Ancillary Agreements, this Agreement and, as of the Closing, the Ancillary Agreements constitute legally valid and binding obligations of Buyer, enforceable against it in accordance with the respective terms thereof, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally or by equitable principles.

Section 7.3 No Conflicts. Neither the execution, delivery and performance by Buyer of this Agreement or the Ancillary Agreements nor the consummation of the transactions contemplated hereby or thereby or the taking of any action contemplated to be taken by Buyer under this Agreement and the Ancillary Agreements will result in (a) a violation or breach of or a conflict with (with our without notice or lapse of time, or both) any material provision of Buyer's Corporate Documents; or (b) a material violation or material breach (with or without notice or lapse of time, or both) by Buyer of any applicable Laws.

Section 7.4 Consents and Approvals. Other than as set out in Schedule 7.4 (such items listed on Schedule 7.4 are referred to herein as the "***Buyer Consents***"), no consent, approval or authorization of, Permit from, declaration, filing or registration with, or notice to, any Authority or any other Person, is required to be made or obtained by Buyer in connection with Buyer's execution, delivery, performance and validity of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby. As of the Execution Date, to Buyer's Knowledge, other than (i) the Buyer Consents, or (ii) any consent, approval, or authorization of, Permit from, declaration, filing or registration with, or notice to, any Authority or any other Person that is required to be obtained pursuant to (x) any Contract to which the Company is a party as of the Closing Date or (y) the terms of any Permit (including the Law pursuant to which such Permit is issued) held by the Company as of the Closing Date, which is required to be obtained by Buyer or the Company in connection with the assignment of any Company Asset from the Company to Buyer on or after the Closing Date as part of the Assets Distribution to Buyer or Merger.

Section 7.5 Legal Proceedings. Other than as described in Schedule 7.5, there are no Actions or material Orders pending or, to Buyer's Knowledge, threatened in writing, against or affecting the acquisition of the Purchased Interests by Buyer or the consummation of the transactions contemplated hereby, at law or in equity, or before or by any Authority and, to Buyer's Knowledge, there is no valid basis for any such Action.

Section 7.6 Finders. Buyer has not engaged any broker or finder in connection with this transaction and no Person has any claim against Buyer or any other Person for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement.

Section 7.7 Sufficient Funds. At Closing, Buyer will have sufficient funds available, or will have sources for sufficient funding capacity, to consummate the transactions contemplated hereby, including to purchase the Purchased Interests and to pay the Purchase Price.

Section 7.8 Compliance With Laws. Buyer has not received any written notification indicating any violation of, and there is no violation of, or non-compliance with, any applicable Law, Order or Permit applicable to the transactions contemplated hereby or that would have a material adverse effect on Buyer's ability to consummate the transactions contemplated hereby, nor to Buyer's Knowledge are there any facts, events, circumstances or occurrences that would reasonably be expected to give rise to, or serve as a basis for, any such notification.

Section 7.9 Bankruptcy. No Bankruptcy Event has occurred and is continuing with respect to Buyer. Neither the signing of this Agreement nor the Closing of the transactions contemplated by this Agreement and the Ancillary Agreements requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction of any reorganization or any bankruptcy Action affecting Buyer.

Section 7.10 Acquisition Intent. Buyer is acquiring the Purchased Interests for its or its Affiliate's own account as an investment without the present intent to sell, transfer or otherwise distribute the same to any other Person in violation of the 1933 Act or any applicable state securities laws. Buyer acknowledges that the Purchased Interests are not registered pursuant to

the 1933 Act and that none of the Purchased Interests may be transferred, except pursuant to an effective registration statement under, or an applicable exception from registration under, the 1933 Act. Buyer is an "accredited investor" as defined under Rule 501 promulgated under the 1933 Act. Buyer is able to bear the economic risk of holding the Purchased Interests for an indefinite period (including total loss of its investment), and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment.

Section 7.11 Independent Investigation. Prior to its execution of this Agreement and the consummation of the transactions hereunder, Buyer has conducted its own independent investigation, evaluation and verification of the Company (including its business, results of operations, prospects and condition (financial or otherwise), the Company Assets, the Purchased Interests, and the Project). In making its decision to execute this Agreement and to acquire the Purchased Interests, Buyer has relied and will rely solely on such independent investigation, evaluation and verification and the terms and conditions of this Agreement, including the representations and warranties set forth in Article VI. Buyer acknowledges that none of Seller, the Company or any other Person has made any representation or warranty as to Seller, Company or the Project, except as expressly set forth in Article VI.

Section 7.12 Project Operations. As of the Closing Date, Buyer does not intend to use energy generated by the Project to serve Illinois customer load needs.

ARTICLE VIII
BUYER'S CONDITIONS PRECEDENT TO CLOSING

Section 8.1 Buyer's Conditions Precedent to Closing. The obligation of Buyer to consummate the transactions contemplated by this Agreement to occur on the Closing Date shall be subject to fulfillment at or prior to the Closing of each of the following conditions, except to the extent Buyer waives such fulfillment in writing:

(a) Deliveries by Seller at Closing. Upon the terms and subject to the conditions set forth in this Section 8.1, on or before the Closing Date, Seller covenants to deliver, or to cause to be delivered, to Buyer the following:

(i) Assignment of Purchased Interests. An original counterpart of the Membership Interest Assignment in substantially the form of Exhibit Q hereto (the "***Membership Interest Assignment***"), conveying to Buyer all of Seller's right, title and interest in and to the Purchased Interests, executed by Seller.

(ii) Certificates. The following certificates:

(A) A certificate executed by an officer of Seller, certifying as of the Closing Date (I) a true and correct copy of the resolutions of Seller authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements to which Seller, Company or any of Seller's other Affiliates is a party, and the consummation of the transactions contemplated

hereby and thereby, (II) incumbency matters, (III) Seller's and the Company's good standing and (IV) the Company's Corporate Records.

(B) A properly completed and duly executed IRS Form W-9 from Seller (or, if Seller is a disregarded entity for federal income tax purposes, the Person treated for federal income tax purposes as the owner of Seller's assets, including the Purchased Interests).

(C) An executed Seller Mechanical Completion PWA Compliance Certificate and any supporting documentation set forth in Section 4.22(b), Section 4.22(c) and Section 4.22(d) in favor of Buyer to demonstrate that Seller, its PWA Contractors and its PWA Subcontractors have complied in all respects with the requirements under Code Sections 45(b)(7)(A), 45(b)(7)(B)(i)(I), and 45(b)(7)(B)(iii)(I) (including as such Code sections are applied via Code Sections 48(a)(10) and 48E(d)(3)) and any applicable PWA Guidance, as of the last day of the month addressed in the [redacted] that was most recently required to have been delivered to Buyer pursuant to Section 4.22(c), with respect to any CAR Work performed by or on behalf of Seller, its PWA Contractors and its PWA Subcontractors with respect to the Project, including any deficiencies discovered in Seller's, a PWA Contractor's or a PWA Subcontractor's compliance with the PWA Requirements, along with the actions taken to cure such deficiencies.

(D) [Reserved]

(E) An executed Beginning of Construction Certificate (Closing Date), with no changes from the form attached hereto as Exhibit HH-1, other than those that, in the sole discretion of Buyer, do not represent risk that the ITCs with respect to the Project will be reduced or otherwise adversely affected.

(F) A certificate executed by an officer of Seller, certifying as to the matters set forth in Section 8.1(b) and Section 8.1(t).

(iii) Resignations. Letters of resignation executed by each of the managers and officers of the Company, if any, effective as of the Closing.

(iv) Release. A release in the form attached hereto as Exhibit R, executed by Seller.

(v) Excluded Assets and Excluded Liabilities. The Excluded Assets and Liabilities Assignment Agreement with respect to the Excluded Assets and Excluded Liabilities, if any, in accordance with Section 10.9, executed by Seller and Company.

(vi) [Reserved].

(vii) Ancillary Agreements. Each of the Ancillary Agreements, executed by Seller or an Affiliate if applicable.

(viii) Books and Records. Physical possession of all business records, financial books and records, files and other files, books and records owned or controlled by, or otherwise in the possession of, Seller or its Affiliates, to the extent (and only to the extent) such books and records are related to the Company or the Project, and in the case of such books and records that are maintained in electronic format, such books and records shall, to the extent practicable, be delivered in an electronic format reasonably requested by Buyer.

(b) Representations, Warranties and Covenants of Seller. The representations and warranties made by Seller in Article VI hereof shall be true and correct in all material respects as of the Closing Date (except, in each case, to the extent that any of such representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in all respects, and Seller shall have performed in all material respects all covenants required by this Agreement to be performed by Seller at or before the Closing Date.

(c) Company Permits. Seller shall have, or caused the Company to have, obtained, and Made Available all of the Company Permits set forth in Part C of Schedule 6.14(a), and all Company Permits set forth in Part A, Part B and Part C of Schedule 6.14(a) (i) shall have either been obtained in the name of the Company or validly assigned to the Company in each case in accordance with applicable Laws, and (ii) to the extent required to be in effect as of the Closing Date, shall be final, nonappealable and in full force and effect.

(d) Consent. Other than the consents obtained pursuant to Section 3.4(h), (i) Seller shall have, or caused the Company to have, obtained or delivered, as applicable, all of the Seller Consents, which Seller Consents shall be final, nonappealable and in full force and effect and true and correct copies of which shall have been received by Buyer, (ii) Buyer shall have obtained all of the Buyer Consents, which Buyer Consents shall be final, nonappealable and in full force and effect. All third party consents, approvals and authorizations required under the Material Contracts and Permits held by the Company for the consummation of the sale of the Purchased Interests to Buyer or the consummation of a change of control or ownership of the Project pursuant to the Assets Distribution to Buyer or Merger shall have been obtained and shall be final, nonappealable and in full force and effect, and (iii) Seller shall have caused the applicable insurer(s) to consent to the assignment of the builder's risk policy from the Company to Buyer upon Closing.

(e) Mechanical Completion. The Mechanical Completion Date shall have occurred.

(f) No Sales of Power. Seller shall have not, and shall have caused the Company not to, sell, transmit or otherwise deliver any power from the Project to any other Person nor have permitted the Project to be Placed in Service or synchronized to the transmission grid.

(g) Required Credit Support. The Required Credit Support (or any renewal thereof) shall be in full force and effect and shall not have been modified, rescinded or revoked and there shall have not occurred and be continuing any Seller Parent Guaranty Default or Letter of Credit Default.

(h) Real Property.

(i) Title Policy. Seller shall have (A) caused the Title Company to irrevocably commit to issue to the Company, at Seller's expense, an ALTA 2021 form extended coverage owner's policy of title insurance (deleting the arbitration clause and limiting or deleting the survey exception to the extent permitted in the State in which the Real Property is located) which policy shall (i) name the Company as the insured; (ii) delete all standard title exceptions, and modify to Buyer's reasonable satisfaction any exception pertaining to mechanics' or materialmen's liens to be limited to those liens which have been or may be filed arising out of work performed or materials furnished to or for the benefit of Seller on the Real Property or any portion thereof; (iii) not include in Schedule B thereof or elsewhere any exceptions other than Permitted Encumbrances; (iv) be issued in the amount of not less than the Purchase Price; (v) show the Company as being vested with all requisite right, title and interest in and to the Real Property (including leasehold, easements and fee interests created by the Land Contracts) free and clear of Encumbrances on or superior to such interests other than Permitted Encumbrances; (vi) reference any and all Subordination Agreements and Crossing Agreements in connection with each of the applicable Schedule B Exceptions; (vii) include the Closing Title Endorsements, without exception; and (viii) have an effective date as of Closing (the "***Title Policy***"); and (B) satisfied (or caused to be satisfied) all requirements set forth in the Preliminary Title Report and Updated Title Reports and delivered (or caused to be delivered) to the Title Company, with a copy to Buyer, such instruments and documents required by Title Company in order to irrevocably commit to issue such Title Policy, including, without limitation, certificates, affidavits and indemnities; provided that such indemnities shall not be executed by Company and none of which instruments, documents, certificates, or affidavits shall cause the Company to retain, following Closing, any liability thereunder, including with respect to any agreements, certifications, or statements set forth therein (it being expressly understood and agreed that any such instrument, document, certificate, or affidavit to be executed by the Company, shall be subject to the reasonable approval of Buyer and shall expressly provide that any and all such liability of the Company shall, prior to Closing, be extinguished and assumed from and thereby by a third party Affiliate of the Company approved by the Title Company), and landowner instruments, such as authority documents.

(ii) Survey. Seller shall use commercially reasonable efforts to cause the surveyor to issue the As-Built Survey, showing the as-built Facilities consistent in all material respects with the Site Plan and that includes and plots to the extent possible the location of all matters set forth in the Preliminary Title Report, the Updated Title Reports, the Preliminary Survey, and the Updated Survey Sheet(s) provided to Buyer in accordance with Section 4.6(d) prior to Closing, and which

shall be, certified to the Company, Buyer, the Title Company and such other Persons as Buyer may direct.

(iii) Real Property Interests. On the Closing Date, the Real Property (other than the Real Property covered by the Wind Project Neighbor Easement Agreements) shall comprise all of the real property interests necessary for the development, construction, installation, interconnection, completion, ownership, operation and maintenance of the Project, as applicable.

(iv) Land Contract Estoppels. Seller shall have delivered to Buyer executed Land Contract Estoppels [redacted].

(i) Payoff Amount. The Baseline Amount shall be greater than or equal to the Payoff Amount, if applicable.

(j) Lenders Payoff Letter and Releases. If Seller undertakes a Financing, on the Closing Date, Buyer shall have received a payoff letter and release from the administrative agent and collateral agent of the Financing Parties under the Construction Loan Agreement in form and substance satisfactory to Buyer in its sole discretion (the "**Payoff Letter**"), along with delivery of the membership certificates for the Purchased Interests and such other documentation as is reasonably necessary to release any Encumbrances of the applicable Financing Parties on the Purchased Interests and/or the Company Assets securing the loans under the Construction Loan Agreement.

(k) Known Breach Escrow Amount. The Known Breach Escrow Amount, if any, with respect to [redacted] shall have been determined by agreement of the Parties or dispute resolution pursuant to Section 4.3(b)(iv)(B).

(l) No Violation. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law or Order.

(m) No Proceeding or Litigation. No Action shall have been instituted or threatened that questions or challenges the validity of, or seeks to impair, restrain, prohibit, invalidate or enjoin, the consummation of the transactions contemplated by this Agreement at the Closing.

(n) Major Project Document Estoppels. Seller shall have delivered to Buyer not later than [redacted] prior to the Closing Date the proposed final form of Major Project Document Estoppels, and Seller shall have delivered to Buyer the agreed form of executed Major

Project Document Estoppels, which shall not be dated more than [redacted] prior as of the Closing Date; provided that Seller shall use commercially reasonable efforts to obtain (i) the Major Project Documents Estoppels to be dated as of the Closing Date and (ii) estoppel certificates from the counterparties to the Interconnection Agreement and any Interconnection Construction Service Agreement, in each case, substantially the form of Exhibit H-1 and dated as of the Closing Date.

(o) Minimum Nameplate Capacity. The as-built Project shall include at least the Minimum Turbines.

(p) Phase I. Within 180 days prior to the Closing Date, Seller shall deliver to Buyer one or more Phase I environmental site assessments and other documentation satisfying the requirements set forth in Section 4.6(c)(i), and all components of such Phase I environmental site assessment(s) shall have been performed no more than 180 days before the Closing Date.

(q) MC Punch List. Seller shall have delivered to Buyer, and Buyer shall have approved, the MC Punch List, such approval not to be unreasonably withheld.

(r) Turbine Supply Agreement Matters.

(i) If the Turbine Supply Agreement has been amended, Seller shall have delivered to Buyer a copy of a reaffirmation of the Supplier Parent Guaranty (as such term is defined in the Turbine Supply Agreement), in form and substance reasonably acceptable to Buyer, executed by Supplier Parent (as such term is defined in the Turbine Supply Agreement) and reaffirming that the Supplier Parent Guaranty is in full force and effect and guaranties all obligations of the Turbine Supplier under the Turbine Supply Agreement as amended through the Closing Date

(ii) [redacted]

(iii) [redacted]

[redacted]

(s) [redacted]

(i) [redacted]

(ii) [redacted]

(iii) [redacted]

(t) [redacted]

(u) [redacted]

ARTICLE IX
SELLER'S CONDITIONS PRECEDENT TO CLOSING

Section 9.1 Seller's Conditions Precedent to Closing. The obligation of Seller to consummate the transactions contemplated by this Agreement to occur on the Closing Date shall be subject to fulfillment at or prior to the Closing of each of the following conditions, except to the extent Seller waives such fulfillment in writing:

(a) Deliveries by Buyer at Closing. Upon the terms and subject to the conditions set forth in this Section 9.1, on or before the Closing Date, Buyer shall deliver, or shall cause to be delivered to Seller, the following:

(i) Consideration. The Closing Payment (if it is a positive number) in accordance with Section 2.2(a)(i) and evidence of payment of the Payoff Amount.

(ii) Certificates.

(A) A certificate executed by an officer of Buyer, certifying as of the Closing Date (I) a true and correct copy of the resolutions of Buyer authorizing the execution, delivery and performance of this Agreement and the other Ancillary Agreements to be executed by it, and the consummation of the transactions contemplated hereby and thereby, (II) incumbency matters, (III) Buyer's good standing and (IV) Buyer's Corporate Documents; and

(B) A certificate from Buyer executed by an officer, certifying as to the matters set forth in Section 9.1(b).

(iii) [Reserved].

(iv) Ancillary Agreements. Each of the Ancillary Agreements to which Buyer or the Company is a party shall be executed by Buyer or the Company and delivered to Seller.

(v) [Reserved].

(b) Representations, Warranties and Covenants of Buyer. The representations and warranties made by Buyer in Article VII hereof shall be true and correct in all material respects as of the Closing Date (except, in each case, to the extent that any of such representations or warranties relate to an earlier or other specific date, in which case, such representations and warranties shall be true and correct in all material respects as of such earlier or other specific date), provided that any such representations or warranties that are qualified by materiality or Material Adverse Effect shall be true and correct in all respects, and Buyer shall have performed in all material respects all covenants required by this Agreement to be performed by Buyer at or before the Closing Date.

(c) Known Breach Escrow Amount. The Known Breach Escrow Amount, if any, with respect to [redacted] shall have been determined by agreement of the Parties or dispute resolution pursuant to Section 4.3(b)(iv)(B).

(d) No Violation. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law or Order that would have a material adverse effect on Seller's ability to consummate the transaction contemplated hereby.

(e) No Proceeding or Litigation. No Action shall have been instituted or threatened that questions or challenges the validity of, or seeks to impair, restrain, prohibit, invalidate or enjoin, the consummation of the transactions contemplated by this Agreement at the Closing.

(f) Replacement of Project Document Credit Support Obligations. Buyer shall have delivered to Seller evidence of the replacement of the Project Document Credit Support Obligations set forth on Schedule 6.33 in accordance with Section 5.8.

(g) [redacted]

ARTICLE X
POST-CLOSING COVENANTS

Section 10.1 Records. Seller and Buyer agree that each will cooperate with and make available to the other Party, during normal business hours after reasonable advance notice, Corporate Records relating to the Project or the Company retained and remaining in existence after the Closing Date that are necessary in connection with any Tax inquiry, audit, investigation or dispute, any Action or any other matter requiring any such books and records. The Party requesting any such books and records shall bear all of the out-of-pocket costs and expenses (including attorneys' fees) reasonably incurred in connection with providing such books and records. Notwithstanding anything to the contrary contained in this Section 10.1, if the Parties are in an adversarial relationship in litigation or arbitration, the furnishing of any documents or information in accordance with this Section 10.1 shall be solely subject to applicable rules relating to discovery.

Section 10.2 Buyer Confidential Information. Subject to the conditions and limitations acknowledged in Section 4.7 and Section 4.8, from and after the Execution Date:

(a) Buyer Confidential Information. Seller acknowledges that Buyer Confidential Information is valuable and proprietary to the Project and Seller agrees not to, directly or indirectly, publish, disseminate, describe or otherwise disclose any Buyer Confidential Information in respect of the Project without the prior written consent of Buyer. For purposes of this Agreement, "***Buyer Confidential Information***" shall mean (a) any and all information provided by Buyer to Seller in writing and identified by Buyer as confidential and (b) any and all information with respect to the Project or the transactions contemplated hereby. Information shall not be deemed to be Buyer Confidential Information if (i) it has become generally known or available within the industry or the public through no act or omission of Seller; (ii) Seller can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Seller; (iii) it was rightfully received by Seller from a third party who became aware of it through no act or omission of Seller and who is not under an obligation of confidentiality to Buyer, or (iv) Seller can demonstrate it was independently developed by employees or consultants of Seller.

(b) Duty to Maintain Confidentiality. Seller shall, and shall cause its Affiliates to, maintain any Buyer Confidential Information in confidence and shall not disclose it or cause it to be disclosed by them or any third party without Buyer's prior written consent; provided, however, that Seller may disclose Buyer Confidential Information to Persons who provide financial analysis, banking, legal, accounting, or other services to Seller or its Affiliates in connection with Seller's evaluation or implementation of the transactions contemplated by this Agreement (including the Financing), so long as such Persons have first been provided with a copy

of Section 10.2 of this Agreement and have been informed of the duties required hereby and Seller may disclose Project specific information reasonably necessary to perform its obligations under this Agreement or to facilitate the Work, [redacted], or to cure any underlying breach with respect to a Known Breach Escrow Amount; provided, that no confidentiality agreement shall be required with respect to disclosures of such types of information to such types of parties where confidentiality agreements are not customarily obtained by prudent developers of wind generation projects in the United States.

(c) Permitted Disclosure. Notwithstanding Section 10.2(b), Buyer Confidential Information may be disclosed (i) if required by any Authority or by applicable Law (including FERC and Commission filings) or stock exchange rule, (ii) in connection with seeking the Commission Approvals and the Required FERC Approvals and (iii) [redacted]; provided, however, that in each case under (i) and (ii) above, such Buyer Confidential Information is submitted under any and all applicable provisions for confidential treatment and in each case under (i) above (other than with respect to FERC and Commission filings and disclosures made in connection with seeking the Required FERC Approvals or the Commission Approvals), Seller exercises commercially reasonable efforts to notify Buyer of such disclosure.

(d) Limited Use. Seller agrees that it will not make any use of any Buyer Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement and the Ancillary Agreements, unless specifically authorized to do so in writing, and this Agreement shall not be construed as a license or authorization to Seller to utilize Buyer Confidential Information except for such purposes.

(e) Return or Destruction. Upon Buyer's request [redacted], Seller shall return to Buyer or destroy as promptly as practicable, but in a period not to exceed [redacted] (a) all Buyer Confidential Information provided to Seller, including all copies of such Buyer Confidential Information, and (b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Buyer Confidential Information was properly provided by Seller. Non-destruction of electronic copies of materials or summaries containing or reflecting Buyer Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as Buyer Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

(f) Specific Performance. Seller acknowledges that a breach of the covenants contained in this Section 10.2 will cause irreparable damage to Buyer, the exact amount of which will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Seller agrees that if Seller breaches any of the covenants contained in this Section 10.2, in addition to any other remedy that may be available at law or in equity, Buyer shall be entitled to specific performance and injunctive relief, without posting bond or other security. In the event of any conflict between the terms of any non-disclosure or other confidentiality agreement between the Parties or their Affiliates, the terms of this Agreement shall control.

Section 10.3 Seller Confidential Information. Subject to the conditions and limitations acknowledged in Section 4.7 and Section 4.8, from and after the Execution Date:

(a) Seller's Confidential Information. Buyer acknowledges that Seller Confidential Information is valuable and proprietary to Seller and Buyer agrees not to, directly or indirectly, use, publish, disseminate, describe or otherwise disclose any Seller Confidential Information without the prior written consent of Seller. For purposes of this Agreement, "***Seller Confidential Information***" *shall mean (a) any and all information provided by Seller to Buyer in* writing and identified by Seller as confidential and (b) any and all information with respect to the Project or the transactions contemplated hereby. Information shall not be deemed to be Seller Confidential Information if (i) the Closing has occurred and such information is also a Company Asset under this Agreement (which information shall include the Company's books and records); (ii) it has become generally known or available within the industry or the public through no act or omission of Buyer; (iii) Buyer can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Buyer; (iv) it was rightfully received by Buyer from a third party who became aware of it through no act or omission of Buyer and who is not under an obligation of confidentiality to Seller; or (v) Buyer can demonstrate it was independently developed by employees or consultants of Buyer.

(b) Duty to Maintain Confidentiality. Buyer shall, and shall cause its Affiliates to, maintain any Seller Confidential Information in confidence and shall not disclose it or cause it to be disclosed by Buyer or any third party without Seller's prior express written consent; provided, however, that Buyer may disclose Seller Confidential Information to Persons who provide financial analysis, banking, legal, accounting, or other services to Buyer or any potential lenders to Buyer in connection with Buyer's evaluation or implementation of the transactions contemplated by this Agreement, so long as such Persons have first been provided with a copy of Section 10.3 of this Agreement and have been informed of the duties required hereby.

(c) Permitted Disclosure. Notwithstanding Section 10.3(b), (i) Seller Confidential Information may be disclosed if required by any Authority or by applicable Law (including FERC and Commission filings) or stock exchange rule, and (ii) in connection with seeking the Commission Approvals and the Required FERC Approvals; provided, however, that in each case under (i) and (ii) above such Seller Confidential Information is submitted under any and all applicable provisions for confidential treatment and in each case under (i) above (other than with respect to FERC and Commission filings and disclosures made in connection with seeking the Required FERC Approvals or the Commission Approvals), Buyer exercises commercially reasonable efforts to notify Seller of such disclosure.

(d) Limited Use. Buyer agrees that it will not make any use of any Seller Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement and the Ancillary Agreements, unless specifically authorized to do so in writing, and this Agreement shall not be construed as a license or authorization to Buyer to utilize Seller Confidential Information except for such purposes.

(e) Return or Destruction. Upon Seller's request, Buyer shall return or destroy as promptly as practicable, but in a period not to exceed [redacted] (a) all Seller Confidential Information provided to Buyer, including all copies of such Seller Confidential Information, and

(b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Seller Confidential Information was properly provided by Buyer. Non-destruction of electronic copies of materials or summaries containing or reflecting Seller Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as Seller Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

(f) Specific Performance. Buyer acknowledges that a breach of the covenants contained in this Section 10.3 will cause irreparable damage to Seller, the exact amount of which will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Buyer agrees that if Buyer breaches any of the covenants contained in this Section 10.3, in addition to any other remedy that may be available at law or in equity, Seller shall be entitled to specific performance and injunctive relief, without posting bond or other security. In the event of any conflict between the terms of any non-disclosure or other confidentiality agreement between the Parties or their Affiliates, the terms of this Agreement shall control.

Section 10.4 Tax Matters.

(a) Buyer shall inform Seller of the commencement of any audit, examination or proceeding relating in whole or in part to Taxes for which Seller is responsible to indemnify any Buyer Indemnified Party pursuant to this Agreement (a "***Tax Contest***"), including any PWA Cure Liability; provided, however, that the rights of any Buyer Indemnified Party hereunder shall not be adversely affected by a failure or delay to give such notice unless, and only to the extent that, the Seller is not materially prejudiced by failure to give such notice. [redacted] Notwithstanding anything in this Agreement to the contrary, Seller shall have no rights under this Agreement to control or participate in (i) any Tax Contest of Buyer or its Affiliates (other than the Company) or (ii) any Tax Contest of the Company with respect to any Tax period that begins on or after the Closing Date.. To the extent there is an inconsistency between Sections 11.2(c) or 11.2(d) and this Section 10.4 as it relates to a Tax Contest, the provisions of this Section 10.4 shall govern.

(b) In the case of any Straddle Period, the amount of any Taxes based on or measured by income, receipts, or payroll of the Company for the pre-Closing portion of such Tax period shall be determined based on an interim closing of the books as of the close of business on the Closing Date. All real property Taxes, personal property Taxes and other Taxes and similar obligations of the Company that are due or become due for Straddle Periods shall be apportioned

to Seller for the pre-Closing portion of such Tax period of such Straddle Period, and the amount of such Taxes and obligations of the Company that relate to the pre-Closing portion of such Tax period shall be deemed to be the amount of such Taxes and obligations for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the end of the day on the Closing Date, and the denominator of which is the number of days in such Straddle Period.

(c) Buyer and Seller shall provide each other with such assistance as may reasonably be requested by the other in connection with the preparation of any Tax Return, any audit or other examination by any Tax Authority, or any judicial or administrative proceedings relating to liabilities for Taxes relating to the Company or the Project (including, for the avoidance of doubt, relating to any ITCs or other Tax benefits claimed or to be claimed by Buyer). Such assistance shall include making employees available on a mutually convenient basis to provide additional information or explanation of material provided hereunder and shall include providing copies of relevant Tax Returns, taxpayer identification numbers, and supporting material. The Party requesting assistance hereunder shall reimburse the assisting Party for reasonable out-of-pocket expenses incurred in providing assistance. Buyer and Seller will retain until the PWA Outside Date and provide the other party with any records or information which may be relevant to such preparation, audit, examination, proceeding or determination.

(d) Seller (or Seller's regarded parent for federal income Tax purposes) shall report any gain recognized on the sale of the Purchased Interests as gain from the sale of property described in Section 1221(a)(1) of the Code for all federal, state and local income tax purposes.

(e) If any refund, rebate or similar payment is received by the Company, and/or Buyer for any Taxes of the Company, such refund, rebate or similar payment shall be for the benefit of Seller to the extent such refund, rebate or similar payment relates to a Pre-Closing Tax Period (or the pre-Closing portion of a Straddle Period, as determined in accordance with the same principles provided for in Section 10.4(b)), and the Company or Buyer, as applicable, shall pay over the amount of such refund, rebate or similar payment (including interest thereon paid by the relevant Authority or other Tax Authority) to Seller (as reduced by any reasonable costs or expenses (including any Taxes) incurred by Buyer or the Company or any of their respective Affiliates as a result of obtaining or receiving such refund, rebate or similar payment) within [redacted] following receipt thereof; provided, that Seller shall not be entitled to receive any portion of a refund, rebate or similar payment to the extent that (i) the applicable Taxes were paid after the Closing Date and Seller did not bear the burden of such Taxes through indemnification of Buyer or otherwise pursuant to this Agreement, or (ii) such refund, rebate or similar payment results from a carryback of a Tax attribute, asset or loss from a taxable period other than a Pre-Closing Tax Period. Notwithstanding anything to the contrary in this Agreement, (x) in the event that any refund, rebate or similar payment that generated a payment to Seller pursuant to this Section 10.4(e) is subsequently disallowed or otherwise required to be returned (in each case, in whole or in part) to any Tax Authority or other Person, Seller shall promptly pay to Buyer the amount of such disallowed refund, rebate or similar payment, and (y) any payment or other amount due to Seller pursuant to this Section 10.4(e) shall be reduced for any outstanding amount owed by Seller to Buyer under this Agreement.

(f) The covenants contained in this Section 10.4 shall survive until the PWA Outside Date.

Section 10.5 Post-Closing Delivery of As-Built Survey and Issuance of Title Policy.

(a) Notwithstanding Section 8.1(h)(ii), Seller and Buyer hereby acknowledge the As-Built Survey will not be available prior to the Closing Date, and, while the Title Policy will be effective as of the Closing Date, the Title Policy will not be finalized and issued until after receipt of the As-Built Survey. For clarity, the cost of the Title Policy shall be paid by Seller pursuant to Section 2.5(d).

(b) Seller will cause the As-Built Survey to be delivered on or prior to [redacted] after the Closing Date. Buyer shall, within [redacted] following Buyer's receipt of the As-Built Survey, notify Seller in writing of any As-Built Defects as to which Buyer objects ("***Buyer's As-Built Survey Objection Notice***"). Any As-Built Defect disclosed in the As-Built Survey and not so specifically objected to by Buyer shall be deemed to be a Permitted Encumbrance. Seller shall use commercially reasonable efforts to cause all As-Built Defects objected to by Buyer to be cured or satisfied (as applicable), within [redacted] of Seller's receipt of Buyer's objections; provided, however, Buyer acknowledges that, to the extent reasonably acceptable to Buyer, any As-Built Defect objected to by Buyer shall constitute a Permitted Encumbrance if the Title Company agrees to insure over such As-Built Defect in the Title Policy. Seller shall use commercially reasonable efforts to cause the Title Company to reflect the As-Built Survey in the Title Policy within [redacted] of Seller's receipt of Buyer's As-Built Survey Objection Notice. Seller will pay all costs incurred in connection with obtaining the As-Built Survey (which shall be certified to the Company, Buyer, the Title Company and such other Persons as Buyer may reasonably direct) and the Title Policy and to cure or satisfy the As-Built Defects. Seller will coordinate its curative efforts with Buyer and furnish Buyer with a weekly summary of its curative activities. Buyer's approval, not to be unreasonably withheld, conditioned or denied, will be required for Seller to enter into any agreement relating to curing As-Built Defects that will bind or burden the Company or Buyer.

Section 10.6 Confidentiality Regarding This Agreement. Subject to the conditions and limitations acknowledged in Section 4.7 and Section 4.8: (i) the Parties each acknowledge and agree that the terms of this Agreement shall be considered Seller Confidential Information and Buyer Confidential Information, and (ii) neither Buyer nor Seller shall issue any public announcement, press release or other statement with respect to this Agreement or the transactions contemplated hereby that identifies the other Party, without the prior consent of the other Party (which consent shall not be unreasonably withheld), unless required by applicable Law or stock exchange rule (including in connection with obtaining the necessary approvals of this Agreement and the transactions contemplated hereby from any Authority) [redacted]; provided, however, that both Buyer and Seller shall have the right without obtaining such consent to include public information concerning the Project in such Party's marketing materials following the initial public announcement by the other Party. In the event a Party breaches this Section 10.6, in addition to and not in lieu of any legal or equitable remedies that may otherwise be available, the non-breaching Party may, in its sole discretion, issue public

announcements that the non- breaching Party shall deem to be appropriate in its sole discretion to supplement, correct or amplify the announcement or statement made by the breaching Party.

Section 10.7 Further Assurances. Following Closing, each of the Parties shall use commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement, including the delivery of such certificates, documents and instruments that either Party reasonably requests for the purpose of (i) evidencing the accuracy of representations and warranties, (ii) evidencing the performance and compliance by the other Party with the agreements contained in this Agreement, (iii) evidencing the satisfaction of any condition referred to in Section 8.1 or Section 9.1, or (iv) otherwise facilitating the consummation of the transactions contemplated by this Agreement. Without limiting the foregoing, Seller shall provide Buyer and Company, and any third party operator of all or any portion of the Facilities, with such assistance as Buyer may from time to time reasonably request for purposes of ensuring that Buyer, its Affiliates, or such third party operator(s), will be able to operate and maintain the Facilities in accordance with Prudent Industry Practices and the Site Operating Plan following the Closing Date.

Section 10.8 Transfer Taxes. All Transfer Taxes, if any, arising out of or in connection with the transactions effected pursuant to this Agreement, excluding any Transfer Taxes resulting from any reorganization or restructuring of Seller or its Affiliates (including the Company) prior to the Closing, but including any Transfer Taxes resulting from the Assets Distribution to Buyer or Merger, shall be borne equally by Seller and Buyer. Tax Returns that must be filed in connection with such Transfer Taxes shall be prepared and filed by the Party primarily or customarily responsible under applicable local Law for filing such Tax Returns, and such Party will use commercially reasonable efforts to provide such Tax Returns to the other Party at least [redacted] prior to the date such Tax Returns are due to be filed. Buyer and Seller shall cooperate to identify, calculate, report and shall provide and make available to the other information reasonably requested regarding the calculation of Transfer Taxes due and each Party shall execute and file any documentation required to be filed by it with respect to such Transfer Taxes.

Section 10.9 Removal of Excluded Assets. On or before the Closing Date (or, if an Excluded Asset was retained by the Company after the Closing, then within ten (10) days of receiving notice thereof), Seller shall at its sole cost and expense, disconnect and remove from the Site all Excluded Assets and, if no other Company Assets are located on the Real Property on which such Excluded Assets were located, restore such Real Property in accordance with the requirements of the Land Contracts that apply in the case of termination of such Land Contract. With respect to all Excluded Asset retained by the Company after the Closing, Seller shall, and Buyer shall cause the Company to, execute and deliver an assignment and assumption agreement, in form and substance substantially similar to the Excluded Assets and Liabilities Assignment Agreement, with respect to such Excluded Assets. Such removal shall be undertaken in such manner as to avoid any damage to the Company Assets and any disruption of the business operations of the Company after the Closing Date. The cost of any damage to the Company Assets resulting from such removal shall be promptly paid by Seller upon receipt of an invoice for same (together with a reasonably detailed accounting therefor) from Buyer. Should Seller fail to remove the Excluded Assets as required by this Section 10.9, Buyer shall have the right, but not the obligation, (a) to remove the Excluded Assets at Seller's sole cost and expense; (b) to store the Excluded Assets and to charge Seller all

reasonable and documented out-of-pocket storage costs associated therewith; (c) if not removed by, or the storage costs assumed by, Seller within [redacted] after the Closing Date (with respect to Excluded Assets known as of the Closing Date) or [redacted] after the date on which Buyer provides notice of the Excluded Assets identified post-Closing (with respect to such later-identified Excluded Assets), as applicable, to treat the Excluded Assets as unclaimed and to proceed to dispose of the same under the Laws governing unclaimed property; or (d) to exercise any other right or remedy conferred by this Agreement or otherwise available at law or in equity other than termination of this Agreement. Seller shall promptly reimburse Buyer for all reasonable and documented costs and expenses incurred by Buyer in connection with the actions in the immediately preceding sentence.

Section 10.10 Seller's Post-Closing Covenants. Seller shall, as promptly as is reasonably practicable, diligently and in good faith assist Buyer in matters in which Seller was involved prior to the Closing as developer of the Project, and to coordinate and cooperate with Buyer in providing such information and supplying such assistance as may be reasonably requested by Buyer in connection with:

(a) any interfaces with Authorities, landowners, Interconnection Construction Service Agreement counterparty(ies), and the Interconnection Agreement counterparty(ies) with respect to matters related to completion of the unfinished portion of the Project; and

(b) causing the Project to achieve Substantial Completion and Final Completion.

Section 10.11 Insurance.

(a) Commencing with the Closing Date and continuing through the Final Completion Date, Seller shall maintain in full force and effect the Project Insurance Policies as provided in Schedule 6.18; provided, however, that Seller shall maintain in full force and effect commercial general liability coverage for products and completed operations as set forth on Schedule 6.18 for a period of three (3) years following the Final Completion Date. Seller shall have the option of procuring insurance required under this Agreement directly, or indirectly through one or more of its Contractors.

(b) From and after the Closing Date, Buyer shall have the right to submit to Seller any claims (together with a reasonable description thereof and back-up therefor) for any documented, out-of-pocket Losses or Liabilities of the Company that are covered by the Project Insurance Policies arising out of insured incidents to the extent occurring from the date coverage thereunder first commenced until the Final Completion Date. With respect to any such claim, Seller shall submit such claim and use its commercially reasonable efforts to administer such claims on behalf of the Company, as applicable, and to seek reasonable recovery under the applicable insurance provisions of such insurance policies covering a Loss of the Company, as applicable, to the same extent as it would if such Loss were a Loss of Seller and to the extent that the terms and conditions of any such policies so allow (it being understood that (i) Seller shall have the right to administer and control such claims and (ii) such claims shall be subject to any and all applicable deductibles, retentions, self-insurance provisions or any payment or reimbursement

obligations in respect thereof, and the exhaustion of existing aggregate limits), and Seller shall pay to Buyer the amount of such recovery within a reasonable time after receipt thereof not to exceed [redacted], net of any out-of-pocket costs and expenses of Seller (including the reasonable fees, disbursements and expenses of legal counsel).

(c) With respect to any claims that may be brought after the Closing with respect to occurrences prior to Final Completion (i) Seller shall ensure that the Company, Buyer, its Affiliates and Representatives, will be endorsed to Seller's policies as additional insureds on Seller's general liability, auto liability, pollution liability and umbrella liability policies, and (ii) such policies shall provide that Seller waives, and causes its insurers to waive, subrogation rights against Buyer and its Affiliates and Representatives with respect to general liability, auto liability, umbrella liability, workers compensation and employer's liability policies.

(d) Losses recovered by the Company pursuant to Section 10.11(b) shall be subject to the provisions of Section 11.2(g).

Section 10.12 Post-Closing Completion of the Project.

(a) From time to time following the Closing Date until the Final Completion Date, Buyer shall reasonably cooperate with Seller to enable Seller to complete construction of the Project in accordance with this Agreement and the schedule and deadlines set forth herein, including affording Seller and all Contractors (and their subcontractors) access to the Project and cooperating with Seller to assert the rights of the Company under the Material Contracts; provided that Buyer shall not have any obligation to take any action that might have an Adverse Effect.

(b) [redacted] Seller shall remain liable for all payments due to counterparties under Material Contracts following the Closing for work and services performed to achieve Mechanical Completion, Substantial Completion and Final Completion.

Section 10.13 Assets Distribution to Buyer or Merger.

(a) Until such time as the Assets Distribution to Buyer or Merger is consummated, after Closing, Buyer shall cause Company to comply with all obligations arising under this Article X [redacted].

Section 10.14 PWA Compliance.

(a) [Reserved].

(b) [redacted]

[redacted]

(c) [redacted]

(d) [redacted]

(e) [redacted]

(f) [redacted]

ARTICLE XI
INDEMNIFICATION

Section 11.1 Survival.

(a) Fundamental Representations. No claim under Section 11.2(a)(i) or Section 11.2(b)(i) may be made by the applicable Party unless such claim is delivered to the other Party (i) with respect to the representations in Sections 6.20 and 6.21, by [redacted], and (ii) with respect to any other Seller's Fundamental Representation or Buyer's Fundamental Representations, prior to [redacted].

(b) Other Representations and Warranties. No claim under Section 11.2(a)(ii) or Section 11.2(b)(ii) may be made by either Party unless such claim is delivered to the other Party prior to the date falling [redacted]

(c) Covenants. All covenants and agreements of the Parties contained in this Agreement shall survive in accordance with their respective terms or until such covenant or agreement has been performed.

Section 11.2 Indemnifications.

(a) By Seller. From and after Closing, subject to Section 4.3(b) and Section 11.3, Seller ("***Seller Indemnifying Party***") shall indemnify, defend, save and hold harmless, Buyer, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the "***Buyer Indemnified Parties***") from and against any and all Losses (whether or not arising out of third-party claims, unless expressly restricted to third party claims below) incurred in connection with or arising out of or resulting from (i) any breach of any of Seller's Fundamental Representations, (ii) (A) any breach of any of Seller's representation or warranties under Article VI, other than Seller's Fundamental Representations or (B) certifications made in any certificate delivered by an officer of Seller to Buyer, (iii) any breach of Seller's covenants or agreements set forth in this Agreement [redacted], (iv) property damage or personal injury asserted by a third party caused by the gross negligence, willful, reckless or other tortious act or omission of Seller, (v) any failure by Seller to pay, perform or discharge any Excluded Liability as and when due, or (vi) without duplication, any breach of Seller's representations in Section 6.20 (Tax Matters) or Section 6.21 (Tax Credit Qualification), or any breach of Seller's obligations under Section 4.22 (PWA Requirements), Section 10.4 (Tax Matters), or Section 10.14 (PWA Compliance), including any PWA Cure Liability (without double counting any [redacted]). Notwithstanding anything to the contrary contained in this Agreement, except in the case of fraud, bad faith, intentional breach or misrepresentation, gross negligence or willful misconduct on the part of Seller, in which case the following limitation shall not apply, no claim for indemnification shall be brought against Seller pursuant to Section 11.2(a)(ii) until the aggregate amount of Losses for such breaches in the aggregate for which Seller would be liable pursuant to Section 11.2(a)(ii) [redacted]

[redacted]; provided, however, that Seller's liability shall be limited as set forth in Section 11.3.

(b) By Buyer. From and after Closing, subject to Section 11.3, Buyer ("***Buyer Indemnifying Party***") shall indemnify, defend, save and hold harmless, Seller, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the "***Seller Indemnified Parties***") from and against any and all Losses (whether or not arising out of third-party claims, unless expressly restricted to third party claims below) incurred in connection with or arising out of or resulting from (i) any breach of any of Buyer's Fundamental Representations, (ii) any breach of any of Buyer's representations or warranties under Article VII other than Buyer's Fundamental Representations, (iii) any breach of Buyer's covenants or agreements set forth in this Agreement [redacted], (iv) property damage or personal injury asserted by a third party caused by the gross negligence, willful, reckless or other tortious act or omission of Buyer, or (v) any failure of Buyer to pay, discharge or perform any Liabilities (other than Excluded Liabilities) of the Company to the extent relating to the period from and after the Closing Date as and when due, except to the extent they are subject to Seller's obligations under Section 11.2(a). Notwithstanding anything to the contrary contained in this Agreement, except in the case of fraud, bad faith, intentional breach or misrepresentation, gross negligence, or willful misconduct on the part of Buyer, in which case the following limitation shall not apply, no claim for indemnification shall be brought against Buyer pursuant to Section 11.2(b)(ii) until the aggregate amount of Losses for such breaches in the aggregate for which Buyer would be liable pursuant to Section 11.2(b)(ii) [redacted]; provided, however, that Buyer's liability shall be limited as set forth in Section 11.3.

(c) Procedure for Indemnification of Third Party Claims.

(i) Whenever any claim by a third party shall arise for indemnification under this Article XI, the Indemnified Party shall promptly notify the Indemnifying Party of the claim and, when known, the facts constituting the basis for such claim and, if known, the notice shall specify the amount or an estimate of the amount of the liability arising therefrom. The Indemnified Party shall provide to the Indemnifying Party copies of all material notices and documents (including court papers) received or transmitted by the Indemnified Party relating to such claim. The failure or delay of the Indemnified Party to deliver prompt written notice of a claim shall not affect the indemnity obligations of the Indemnifying Party hereunder, except to the extent the Indemnifying Party was actually disadvantaged by such failure or delay in delivery of notice of such claim.

(ii) Settlement of Losses. If the Indemnified Party has assumed the defense of any claim by a third party which may give rise to indemnity hereunder pursuant to Section 11.2(d), the Indemnified Party shall not settle, consent to the entry of a judgment of or compromise such claim without the prior written consent (which consent shall not be unreasonably withheld or delayed) of the Indemnifying Party.

(d) Rights of Indemnifying Party in the Defense of Third Party Claims.

(i) Right to Assume the Defense. In connection with any claim by a third party which may give rise to indemnity hereunder, the Indemnifying Party shall have [redacted] after the date the Indemnifying Party is notified of such claim by the Indemnified Party to assume the defense of any such claim, which defense shall be prosecuted by the Indemnifying Party to a final conclusion or settlement in accordance with the terms hereof; provided, however, that the Indemnifying Party shall not have the right to assume the defense of any claim unless the Indemnifying Party acknowledges to the Indemnified Party in writing the obligation of the Indemnifying Party to indemnify the Indemnified Party with respect to all elements of such claim.

(ii) Procedure. If the Indemnifying Party assumes the defense of any such claim, the Indemnifying Party shall (i) select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claim and (ii) take all steps necessary in the defense or settlement thereof, at its sole cost and expense. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such claim, with its own counsel and at its sole cost and expense; provided, that, if the claim includes allegations for which the Indemnifying Party both would and would not be obligated to indemnify the Indemnified Party, the Indemnifying Party and the Indemnified Party shall in that case jointly assume the defense thereof. The Indemnified Party and the Indemnifying Party shall fully cooperate with each other and their respective counsel in the defense or settlement of such claim. The Party in charge of the defense shall keep the other Party appraised at all times as to the status of the defense or any settlement negotiations with respect thereto.

(iii) Settlement of Losses. The Indemnifying Party shall not consent to a settlement of or the entry of any judgment arising from, any such claim or legal proceeding, without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed).

(iv) Decline to Assume the Defense. The Indemnified Party may defend against any such claim, at the sole cost and expense of the Indemnifying Party, in such manner as it may deem reasonably appropriate, including settling such claim in accordance with the terms hereof if (i) the Indemnifying Party does not assume the defense of any such claim resulting therefrom within [redacted] after the date the Indemnifying Party is notified of such claim by the Indemnified Party or (ii) the Indemnified Party reasonably concludes that the Indemnifying Party is (A) not diligently defending the Indemnified Party, (B) not contesting such claim in good faith through appropriate proceedings or (C) has not taken such action (including the posting of a bond, deposit or other security) as may be necessary to prevent any action to foreclose an Encumbrance against or attachment of any asset or property of the Indemnified Party for payment of such claim.

(e) Direct Claims. In the event that any Indemnified Party has a claim against any Indemnifying Party which may give rise to indemnity hereunder that does not involve a claim brought by a third party, the Indemnified Party shall promptly notify the Indemnifying Party of the claim and the facts constituting the basis for such claim and, if known, the amount or an estimate

of the amount of the liability arising therefrom. If the Indemnifying Party does not notify the Indemnified Party within [redacted] from receipt of such claim notice that the Indemnifying Party disputes such claim, the amount of such claim shall be conclusively deemed a liability of the Indemnifying Party hereunder; however if the Indemnifying Party does notify the Indemnified Party that it disputes such claim within the required [redacted] period, the Parties shall attempt in good faith to agree upon the rights of the respective Parties with respect to such claim. If the Parties should so agree, a memorandum setting forth such agreement shall be prepared and signed by both Parties. If such Parties shall not agree, the Indemnified Party shall be entitled to take any action in law or in equity as such Indemnified Party shall deem necessary to enforce the provisions of this Article XI against the Indemnifying Party.

(f) Exclusive Remedy. Notwithstanding anything in this Agreement to the contrary and subject to the following sentence, from and after Closing, the indemnification obligations of the Parties contained in this Section 11.2 (and subject to the limitations set forth in Section 11.3) shall be the sole and exclusive remedy of the Parties hereto, their Affiliates, successors and assigns with respect to any and all claims for Losses sustained or incurred arising out of or relating to any breach of any representation or warranty in Article VI or Article VII, or any covenant or agreement contained in this Agreement, including any claims with respect to environmental, health and safety matters; and each Party hereby expressly waives and disclaims, and agrees that it shall not assert, any right, remedy (including the remedy of rescission) or claim in respect of any such breach or Losses based on any cause or form of action whatsoever, except as and to the extent permitted in this Section 11.2; provided, however, that (i) the Parties may seek to enforce the provisions of this Agreement by injunction, specific performance or other equitable relief, (ii) either Party may seek any and all judicial relief with respect to any Default by the other Party of any of its obligations to pay any amounts due and owing to such Party under this Agreement, and (iii) such limitation shall not affect the remedies available to the parties under the Required Credit Support [redacted], which remedies shall be governed by the terms of such Ancillary Agreements, and (iv) this provision shall not limit any available remedy of the Party seeking indemnification for any Losses resulting from, or related to, the fraud, bad faith, intentional breach or misrepresentation, gross negligence, or willful misconduct of the other Party. Nothing in this Section 11.2(f) is intended to constitute a waiver or limitation of any rights that any Party (or their respective Affiliates) may have to assert claims against third parties.

(g) [redacted]

(h) Tax Treatment. Any indemnity payment made pursuant to this Agreement will be treated as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by applicable Law.

(i) No Contribution. Seller will not have any right of contribution, right of indemnity or other right or remedy against the Company in connection with any indemnification obligation or any other Liability to which Seller may become subject under or in connection with this Agreement or otherwise.

(j) Reliance; Knowledge. Seller and Buyer each acknowledge that (i) only representations, warranties, covenants or agreements expressly made in this Agreement will be deemed to be representations, warranties, covenants or agreements for purposes of this Agreement, and (ii) neither Party has relied on any representation, warranty, covenant or agreement not expressly made in this Agreement in consummating the transactions described herein. The right to indemnification, payment, reimbursement, or other remedy based upon any representation, warranty, covenant, or agreement will not be affected by any investigation (including any environmental investigation or assessment) conducted or any knowledge acquired at any time, whether before or after the Closing Date, with respect to the accuracy or inaccuracy of, or compliance with, such representation, warranty, covenant, or agreement.

(k) No Materiality. Any determination of the dollar amount of damages suffered by an Indemnified Party as a result of any such breach, shall be made without regard to any materiality, Material Adverse Effect or material adverse qualifiers set forth in the applicable representation, warranty, covenant or agreement.

(l) Set off. In addition to all other remedies provided herein, each Party shall have the sole and absolute right to set off any Losses that are or may be owed by such Party to the other Party's Indemnified Party under this Article XI against any Liability owed by such party or its Affiliates to the other Party or its Affiliates.

Section 11.3 Limitation of Liability. Notwithstanding anything to the contrary in this Agreement:

(a) If Delay Liquidated Damages accrue, then Buyer's retention of the Delay Liquidated Damages or Seller's payment of the Delay Liquidated Damages, as the case may be, shall in each case constitute liquidated damages for the delay. Notwithstanding anything in this Agreement [redacted] to the contrary, Delay Liquidated Damages shall be the sole and exclusive remedy of Buyer for damages resulting from a delay in the Project achieving Substantial Completion. The Parties acknowledge and agree that actual damages, costs or expenses of any such event would be difficult to ascertain and that the liquidated damages remedy provided for hereunder is a fair and equitable amount to reimburse Buyer for damages sustained due to such event and is not a penalty.

(b) SUBJECT TO THE NEXT SENTENCE, IN NO EVENT SHALL EITHER PARTY TO THIS AGREEMENT BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, CONSEQUENTIAL, REMOTE, UNFORESEEABLE, SPECULATIVE OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT TO THIS AGREEMENT. THE FOREGOING EXCLUSION SHALL NOT PRECLUDE RECOVERY (I) FOR LIQUIDATED DAMAGES CONTEMPLATED PURSUANT TO Section 4.16, (II) UNDER ANY INDEMNITY IN ARTICLE XI TO THE EXTENT THAT INDEMNIFICATION OBLIGATIONS IN RESPECT OF THIRD-PARTY

CLAIMS COULD BE DEEMED TO BE LIMITED BY THE FOREGOING, OR (III) LOST CAPACITY (BUT LIMITED TO A PERIOD OF THREE (3) YEARS), LOST RECS (BUT LIMITED TO A PERIOD OF THREE (3) YEARS), LOST ITCS / TAX BENEFITS.

(c) The Parties' indemnification obligations under Section 11.2 shall be limited as follows:

(i) together with all other amounts paid to the Buyer Indemnified Parties (or set off against amounts due and payable to Seller), the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 11.2(a)(i) and Section 11.2(a)(iii) shall not exceed the Purchase Price;

(ii) the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 11.2(a)(vi) for any failure of Seller to comply with the obligations set forth in Section 4.22 (PWA Requirements) or Section 10.14 (PWA Compliance), or any breach of Seller's representations in Section 6.21(g) or 6.21(h) shall not exceed [redacted];

(iii) together with all other amounts paid to the Seller Indemnified Parties (or set off against amounts due and payable to Buyer), the aggregate Losses to which the Seller Indemnified Parties shall be entitled under Section 11.2(b)(i) and Section 11.2(b)(iii) shall not exceed the Purchase Price;

(iv) the aggregate Losses to which Buyer Indemnified Parties shall be entitled under Section 11.2(a)(ii) shall not exceed the Indemnity Cap,

(v) the aggregate Losses to which the Seller Indemnified Parties shall be entitled under Section 11.2(b)(ii) shall not exceed the Indemnity Cap,

(vi) the aggregate Losses resulting from Lost ITCs / Tax Benefits shall not exceed [redacted].

provided, however, that the limitations of liability set forth above is unrelated to and shall not apply in respect of claims for fraud, bad faith, intentional breach or misrepresentation, gross negligence or willful misconduct.

ARTICLE XII
TERMINATION

Section 12.1 Termination.

(a) Termination by Buyer. This Agreement may be terminated prior to the Closing by Buyer upon written notice to Seller of such termination as follows:

(i) in the event the Required Credit Support required to be delivered to Buyer under Section 5.6(a) is not delivered within [redacted] after the Execution Date, effective immediately upon Seller's receipt of notice from Buyer;

(ii) in the event the Required Credit Support required to be delivered to Buyer under Section 5.6(b) is not delivered within [redacted] after the Firm Date, effective immediately upon Seller's receipt of notice from Buyer;

(iii) in the event the conditions precedent to Closing set forth in Section 8.1 have not been fulfilled or waived, on or before the Outside Date effective immediately upon Seller's receipt of notice from Buyer; provided, however, that Buyer may not terminate this Agreement pursuant to this Section 12.1(a)(iii) if Buyer's failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to such date;

(iv) in the event that any of the Required Commission Approvals have not been received by the Buyer Commission Approval Deadline, or if Buyer provides written notice with supporting documentation to Seller at any time prior to the Buyer Commission Approval Deadline that it is unlikely that the Required Commission Approvals will be obtained by the Buyer Commission Approval Deadline (based on responses from the Virginia State Corporation Commission, its staff, other state officials, or other credible information upon which it is reasonable for the Buyer to rely), effective immediately upon Seller's receipt of notice from Buyer;

(v) upon the occurrence of a Bankruptcy Event with respect to Seller or the Company, effective immediately upon Seller's receipt of notice from Buyer;

(vi) the material breach of any representation or warranty by Seller on or as of the Execution Date or the Firm Date, or the material breach of any covenant by Seller, in each case, if such breach has not been cured within [redacted] after notice from Buyer; and

(vii) as Buyer is permitted in accordance with [redacted].

(b) Termination by Seller. This Agreement may be terminated prior to the Closing by Seller upon written notice to Buyer of such termination as follows:

(i) in the event the conditions precedent to Closing set forth in Section 9.1 have not been fulfilled or waived, on or before the Outside Date, effective immediately upon Buyer's receipt of notice from Seller; provided, however, that Seller may not terminate this Agreement pursuant to this Section 12.1(b)(i) if Seller's failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to such date;

(ii) upon the occurrence of a Bankruptcy Event with respect to Buyer, effective immediately upon Buyer's receipt of notice from Seller;

(iii) the material breach of any representation or warranty by Buyer on or as of the Execution Date or the Firm Date, or the material breach of any covenant by Buyer, in each case, if such breach has not been cured within [redacted] after notice from Seller;

(iv) [Reserved].

(v) in the event that the Interconnection Agreement has an estimated backfeed date for the Project after [redacted], effective immediately upon Buyer's receipt of notice from Seller delivered before the Firm Date; and

(vi) as Seller is permitted in accordance with [redacted].

(c) Termination due to Force Majeure. Notwithstanding anything to the contrary contained herein, if any one or more Force Majeure events result or is expected to result in a delay that exceeds [redacted] and Seller determines (in its reasonable discretion) that such delay will cause or has actually caused, in whole or in part, a failure by Seller to achieve Mechanical Completion by the Drop Dead Date, then Seller shall notify Buyer, and the Parties shall meet and confer to discuss the same for a period not to exceed [redacted] from the date of Seller's notice. If, after such meeting, the Parties are unable to reach mutual agreement on a solution to the foregoing that is acceptable to both Parties (or if a meeting has not occurred within such [redacted] period), Seller may terminate this Agreement by providing written notice of such termination to Buyer. If Seller elects to terminate this Agreement pursuant to this Section 12.1(c), then this Agreement shall terminate and, except for (i) any Losses sustained or incurred in connection with any fraud, reckless disregard, intentional misrepresentation, intentional breach or willful misconduct of either Party against the other Party in connection with this Agreement and (ii) [redacted]

[redacted]

Section 12.2 Effect of Termination. Upon termination, the Parties shall have no further Liabilities or obligations under this Agreement, except (a) as expressly provided in Sections 3.6, clause (D) of 4.3(b)(iv), 4.21(c) or 12.1(c), (b) the applicable provisions of Article XIII, this Section 12.2 and Section 11.2(f)(iv) shall continue to apply following any such termination, (c) Seller shall be obligated to pay any Delay Liquidated Damages that may have accrued prior to the effective date of such termination, (d) each Party shall return the unused portion of any credit support issued by the other Party and (e) each Party shall continue to be liable for any material breach by such Party of its representations, warranties or covenants contained in this Agreement occurring prior to such termination to the extent this Agreement is terminated pursuant to Section 12.1(a)(vi) or Section 12.1(b)(iii).

ARTICLE XIII
MISCELLANEOUS

Section 13.1 Payment Instructions. All amounts payable under this Agreement shall be made pursuant to the payment instructions provided by the payee of such amount to the payor thereof in writing at least three (3) Business Days before the date on which such payment is due.

Section 13.2 Assignment. Seller may not assign any of its rights or obligations under this Agreement without the prior written consent of Buyer; provided, however, that no such consent shall be required with respect to the assignment or collateral assignment of this Agreement by Seller to, or for the benefit of, the Financing Parties. Buyer may not assign its rights or obligations under this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed; provided that no such consent shall be required with respect to an assignment to an Affiliate of Buyer if such assignee (i) has an Acceptable Credit Rating (based on the assignee's senior, unsecured long-term debt obligations not supported by third party credit enhancements), but not both and (ii) assumes in writing all of Buyer's obligations hereunder and under all other Ancillary Agreements.

Section 13.3 Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement, including all documents delivered pursuant to this Agreement, shall be in writing (which may include electronic mail) and shall be deemed to have been duly given when received if personally delivered; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express or UPS); upon receipt, if sent by certified or registered mail, return receipt requested; and upon transmission by the sender to the correct electronic mail address, if sent by electronic mail. In each case notice shall be sent to:

If to Seller, to:

EDF-RE US Development, LLC
15445 Innovation Dr.
San Diego, CA 92128
[redacted]

With a copy to (which copies shall not constitute notice hereunder):

EDF Renewables, Inc.
15445 Innovation Dr.
San Diego, CA 92128
[redacted]

If to Buyer, to:

Appalachian Power Company
c/o American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215
[redacted]

With a copy to (which copy shall not constitute notice hereunder):

Appalachian Power Company
c/o American Electric Power Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215
[redacted]

or to such other place and with such other copies as a Party may designate as to itself by written notice to the other Party.

Section 13.4 Choice of Law; Consent to Jurisdiction; Service of Process.

(a) Governing Law. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the Laws of the State of New York without reference to its choice of law provisions.

(b) Executive Dispute Resolution. Except with respect to any Technical Disputes, which are to be resolved solely in connection with Section 13.4(e), upon a Party's written notification to the other Party of a dispute, which notification must include a written explanation of the dispute and the material particulars of the notifying Party's position as to the dispute, each Party shall nominate one (1) executive representative with the authority to bind such Party. The nominated representatives shall meet not later than [redacted] thereafter to attempt in good faith to resolve the dispute and to produce written terms of settlement for the dispute (a "***Settlement Agreement***"). A Settlement Agreement executed by each executive representative shall serve as conclusive evidence of the resolution of such dispute. If the executive representatives do not produce and execute the Settlement Agreement within [redacted] after the date of the first meeting or within a longer period agreed to by each executive representative, then, either Party may upon written notice to the other Party, pursue all its rights and remedies provided at law or equity or otherwise in this Agreement.

(c) Jurisdiction. The Parties hereto hereby irrevocably submit to the exclusive jurisdiction of the federal or state courts located in the State of New York over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby; and each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding shall be heard and determined in such federal courts unless such federal courts do not have jurisdiction in which event such dispute or proceeding shall be heard and determined in such state courts. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum.

(d) Service of Process. Each of the Parties hereto hereby consents to process being served by the other Party to this Agreement in any suit, action or proceeding of the nature specified in Section 13.4(c) by mailing of a copy thereof in accordance with the provisions of Section 13.3 hereof.

(e) Technical Disputes. In the event of any dispute between the Parties with respect to whether the Work was completed in accordance with the terms of the Agreement, whether Mechanical Completion, Substantial Completion or Final Completion have occurred or whether an item is an MC Punch List Item or an SC Punch List Item (each, a "***Technical Dispute***"), either Party may make a written request that it be resolved by binding arbitration before an Independent Engineer in accordance with this Section 13.4(e). Within [redacted] of such a request, Seller and Buyer shall jointly engage the Independent Engineer to resolve the Technical Dispute, and within [redacted] after the Independent Engineer has been jointly engaged by Seller and Buyer, each Party will submit to the Independent Engineer a written description of the Technical Dispute and of that Party's position with regard to the Technical Dispute. The Independent Engineer may request that the Parties meet in person or electronically with the Independent Engineer to discuss the dispute. The Independent Engineer may request further information from the Parties. The Independent Engineer will issue a written determination of the resolution of the Technical Dispute within [redacted] of submission of both of the Parties' descriptions and positions. The resolution of the Technical Dispute by the Independent Engineer will be final and binding on the Parties absent manifest error. The Parties shall equally bear all of the fees and expenses of the Independent Engineer in determining the dispute from the other Party.

Section 13.5 Waiver of Jury Trial. EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 13.6 Entire Agreement; Amendments and Waivers. This Agreement [redacted] contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements and commitments with respect thereto. No supplement, modification or waiver of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) or any other breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

Section 13.7 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 13.8 Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein (other than a requirement to make payments hereunder), shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

Section 13.9 Titles. The recitals to this Agreement and the titles, captions or headings of the Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 13.10 Third Party Beneficiaries. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Buyer Indemnified Parties and Seller Indemnified Parties shall be third party beneficiaries of this Agreement, provided that only Seller or Buyer may enforce the provisions hereof on behalf of their respective Indemnified Parties. Except as provided in this Section 13.10, there shall be no third-party beneficiaries of this Agreement.

Section 13.11 Cumulative Remedies. Subject to the terms of this Agreement, all rights and remedies of either Party hereto are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

Section 13.12 No Partnership or Joint Venture. The Parties hereto do not intend to create a partnership or joint venture by virtue of this Agreement. No Party shall owe any fiduciary duty to any other Party by virtue of this Agreement or any Ancillary Agreement or otherwise.

Section 13.13 No Merger. This Agreement is a fully integrated complete agreement and is not merged with or extinguished by any other agreement.

Section 13.14 Pricing Redaction. Prior to the Closing Date, the Parties acknowledge and agree that notwithstanding anything to the contrary contained herein, Seller shall not be required to provide the pricing terms of any Contract, except those pricing terms that (x) Seller is expressly required to provide under this Agreement in connection with the Purchase Price provisions set forth in Sections 2.12 through 2.14, or (y) Buyer needs to know in order to (i) perform any of its ongoing obligations hereunder or to obtain the Buyer Commission Approvals, or (ii) understand the Company's potential liability under each such Contract after the Closing Date (including but not limited to understanding the limitations on the Company's liability). For the avoidance of doubt, the Parties acknowledge and agree that the intent of this Section 13.14 (and related redaction provisions in this Agreement) is to memorialize the Parties' understanding that Seller may redact the numerical value of pricing terms of any Contract, but Seller shall not redact any percentages within such Contract used for purposes of determining the Company's rights and obligations (i.e., limitation of liability caps to the extent determined as a percentage of the applicable contract price) or dollar amounts (other than the contract price) where amounts other than the contract price, such as limitation of liability caps, are expressed in dollars instead of a percentage of the purchase price.

[redacted]

[SIGNATURE PAGE FOLLOWS]

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

SELLER:

EDF-RE US Development, LLC

By: DocuSigned by: Kathryn O'Hair 9D34FE611436485...
Name: Kathryn O'Hair
Title: President

BUYER:

APPALACHIAN POWER COMPANY

Signed by:

By: _____
1E05B37AA74540C...

DS PMC

Name: Aaron D. Walker
Title: President and Chief Operating Officer

BUYER AGENT:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

DS
PMC

Signed by:
By: Michael L. Deggendorf
784E680CA638497...
Name: Michael L. Deggendorf
Title: Senior Vice President

RENEWABLE ENERGY PURCHASE AGREEMENT
FOR
SOLAR ENERGY RESOURCES

BETWEEN

HCE COLLIER SOLAR, LLC

AND

APPALACHIAN POWER COMPANY

April 24, 2025

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EXHIBIT L FORM OF CONSENT AND AGREEMENT

RENEWABLE ENERGY PURCHASE AGREEMENT
BETWEEN
HCE COLLIER SOLAR, LLC AND
APPALACHIAN POWER COMPANY

This Renewable Energy Purchase Agreement (the "REPA") is made this 24th day of April 2025, by and between HCE Collier Solar, LLC ("Seller"), a Virginia limited liability company, with a principal place of business at 4325 Lake Boone Trail, Suite 220, Raleigh, NC 27607,, and Appalachian Power Company ("Purchaser"), a Virginia corporation, with a principal place of business at c/o American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215-2355. Seller and Purchaser are hereinafter referred to individually as a "Party" and collectively as the "Parties".

INTRODUCTION

WHEREAS Seller desires to develop, design, construct, own or lease and operate a solar photovoltaic electric generating facility with a total nameplate capacity of 7.5 MW AC, and which is further defined below as the "Facility"; and

WHEREAS Seller intends to locate the Facility in Wise County, Virginia, and to interconnect the Facility with the Interconnection Provider's System; and

WHEREAS Seller desires to sell and deliver to Purchaser at the Point of Delivery all of the Renewable Energy Products generated by the Facility, and Purchaser desires to buy the same from Seller; and

WHEREAS Purchaser has accepted Seller's offer to sell such Renewable Energy Products in accordance with the terms and conditions set forth in this REPA.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS AND RULES OF INTERPRETATION

1.1 Rules of Construction.

The capitalized terms listed in this Article shall have the meanings set forth herein whenever the terms appear in this REPA, whether in the singular or the plural or in the present or past tense. Other terms used in this REPA but not listed in this Article shall have meanings as commonly used in the English language and, where applicable, in Good Utility Practice. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings. In addition, the following rules of interpretation shall apply:

(A) The masculine shall include the feminine and neuter.

(B) References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this REPA.

(C) The Exhibits attached hereto are incorporated in and are intended to be a part of this REPA; provided, that in the event of a conflict between the terms of any Exhibit and the terms of Articles 1 through 20 of this REPA, the terms of Articles 1 through 20 of this REPA shall take precedence.

(D) This REPA was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this REPA and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this REPA or any part hereof.

(E) The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this REPA. Unless expressly provided otherwise in this REPA, (i) where the REPA requires the consent, approval, or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld, conditioned or delayed, and (ii) wherever the REPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

(F) Each reference in this REPA to any agreement or document (including those set forth electronically on an internet web site) or a portion or provision thereof shall be construed as a reference to the relevant agreement or document as amended, supplemented or otherwise modified from time to time.

(G) Each reference in this REPA to applicable laws and to terms defined in, and other provisions of, applicable laws (including those set forth electronically on an internet web site) shall be references to the same (or a successor to the same) as amended, supplemented or otherwise modified from time to time.

(H) Each reference in this REPA to a Person includes its successors and permitted assigns and, in the case of a Governmental Authority, any Person or Persons succeeding, in whole or in part, to its functions and capacities.

(I) In this REPA, the words "include," "includes" and "including" are to be construed as being at all times followed by the words "without limitation."

1.2 Interpretation with Interconnection Agreement.

(A) The Parties recognize that Seller will enter into a separate Interconnection Agreement with the Interconnection Provider.

(B) The Parties acknowledge and agree that the Interconnection Agreement shall be a separate and free-standing contract and that the terms of this REPA are not binding upon the Interconnection Provider.

(C) Notwithstanding any other provision in this REPA, nothing in the Interconnection Agreement shall alter or modify Seller's or Purchaser's rights, duties and obligations under this REPA. This REPA shall not be construed to create any rights between Seller and the Interconnection Provider.

(D) Seller expressly recognizes that, for purposes of this REPA, the Interconnection Provider shall be deemed to be a separate entity and separate contracting party whether or not the Interconnection Agreement is entered into with Purchaser or an Affiliate of Purchaser.

1.3 Interpretation of Arrangements for Electric Supply to the Facility.

(A) The Parties recognize that this REPA does not provide for the supply of any electric service by Purchaser to Seller or to the Facility and Seller must enter into separate arrangements for the supply of electric services to the Facility, including the supply of start-up and shutdown house power and Energy.

(B) The Parties acknowledge and agree that the arrangements for the supply of electric services to the Facility shall be separate and free-standing arrangements and that the terms of this REPA are not binding upon the supplier of such electric services.

(C) Notwithstanding any other provision in this REPA, nothing in the arrangements for the supply of retail electric services to the Facility shall alter or modify Seller's or Purchaser's rights, duties and obligations under this REPA. This REPA shall not be construed to create any rights between Seller and the supplier of such retail electric services.

(D) Seller expressly recognizes that, for purposes of this REPA, the supplier of retail electric services to the Facility shall be deemed to be a separate entity and separate contracting party whether or not the arrangements for the supply of retail electric services to the Facility is entered into with Purchaser or an Affiliate of Purchaser.

1.4 Definitions.

The following terms shall have the meanings set forth below when used herein:

"Abandonment" means, on and after the Commercial Operation Date, the relinquishment of all possession and control of the Facility by Seller, other than a transfer permitted under this REPA.

"AC" means alternating current.

"Acceptable Credit Rating" means a Credit Rating of (a) BBB- or better from Standard & Poor's Rating Services and (b) Baa3 or better from Moody's Investors Service, Inc.

"Acceptable Issuing Bank" means a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof or a foreign bank with a U.S. branch office, which is not the account party or the account party's Affiliate under the letter of credit, with (i) a Credit Rating of at least "A-" by Standard & Poor's Rating Services and "A3" by Moody's Investors Services, Inc. and (ii) having a capital and surplus of at least $10,000,000,000.

"Affiliate" of any Person means any other Person that Controls, is under the Control of, or is under common Control with, the named entity.

"Ancillary Services" means regulation and frequency response services, energy imbalance services, automatic generating control, spinning reserve, non-spinning reserve, replacement reserve, reactive power, voltage support and any other services that support the transmission of capacity and energy or the reliable operation of the Transmission Provider's transmission system, all to the extent included as ancillary services in the Transmission Operator's open access transmission tariff, in each case, to the extent commonly sold or saleable.

"Applicable Law" means any treaty, constitution, law, statute, ordinance, rule, order, decree, regulation or other directive which is legally binding and has been enacted, issued or promulgated by any Governmental Authority.

"Available Minutes" [redacted]

"Availability" [redacted]

"Availability Notice" shall have the meaning set forth in Section 10.7(B).

[redacted]

[redacted]

"Back-Up Metering" shall have the meaning set forth in Section 5.4(C).

"Beneficial Environmental Interests" means all Non-Power Attributes associated in any way, directly or indirectly, with the Facility and all RECs associated with such Non-Power Attributes, excluding Renewable Energy Incentives.

"Business Day" means any calendar day that is not a Saturday, a Sunday, or a NERC Holiday.

"Calculation Period" means each Contract Year, commencing on the first day of the Delivery Period.

"Capacity" means the output level, expressed in MW AC, that the Facility, or the components of equipment thereof, is capable, as of a given moment, of continuously producing and making available at the Point of Delivery, taking into account the operating condition of the equipment at that time, the auxiliary loads and other relevant factors. Capacity includes all installed capacity and unforced capacity attributed to the Facility by the Interconnection Provider, RFC or any Governmental Authority, or that is commonly sold or saleable to third parties.

"Capacity Resource" shall have the meaning set forth in the OATT.

"Cash" shall have the meaning set forth in Section 11.1(C)(2).

[redacted]

[redacted]

"Clock Hour" means sixty-minute increments commencing at the top of the hour on the clock (i.e., 12 o'clock)

"Close of the Business Day" means 5:00 PM EPT on a Business Day.

"Commercial Operation Date" or "COD" means the date that Seller provides notification to Purchaser, pursuant to Section 4.7, of Seller's declaration that all of the Conditions specified in Section 4.7 have occurred or otherwise been satisfied.

"Commercial Operation Milestone" means the anticipated Commercial Operation Date for the Facility. The Commercial Operation Milestone is specified as no later than May 31, 2027; [redacted]

"Communications Equipment" means the communication circuits from the Facility to Purchaser for the purpose of telemetering, supervisory control and data acquisition and transmittal of real time data as described in Exhibit G and voice communications as reasonably required by Purchaser.

[redacted]

"Conditions" shall have the meaning set forth in Section 4.7.

"Consent and Agreement" means a Consent and Agreement in substantially the form of Exhibit L.

"Contract Administration Committee" means one representative each from Purchaser and Seller pursuant to Section 10.3(A).

"Contract Administration Procedures" means those procedures developed pursuant to Section 10.3(B).

"Contract Rate" means the applicable rate set forth in Exhibit B.

"Contract Year" means each full calendar year of the Term, whether such calendar year is comprised of 365 or 366 Days, subject to the Proration Factor.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management of policies of a Person, whether through ownership interest, by contract or otherwise.

"Control Area" means the system of electrical generation, distribution, and transmission facilities within which generation is regulated in order to maintain interchange schedules with other such systems.

"Credit Rating" means, for any Person, the senior unsecured and non-credit-enhanced long term debt rating of such Person or, if such Person does not have a senior unsecured and non-credit-enhanced long term debt rating, the issuer rating of such Person.

"Creditworthy Entity" means (i) a United States Person having at the applicable time an Acceptable Credit Rating or (ii) a foreign Person acceptable to Purchaser in its sole discretion having at the time an Acceptable Credit Rating.

"Day" means a calendar day.

"DC" means direct current.

"Delay Liquidated Damages" shall have the meaning set forth in Section 4.10.

"Delivery Period" means the period that commences at 0000 hours on the Commercial Operation Date and continues through the remainder of the Term.

"Dispute" shall have the meaning set forth in Section 13.9(A).

"Dispute Notice" shall have the meaning set forth in Section 13.9(A).

"Distribution Provider" means any Person or Persons that provides Energy distribution services in the retail electric territory in which the Facility is located.

"Due Diligence Period" shall have the meaning set forth in Section 19.3(B).

[redacted]

"Electric Interconnection Point" means the physical Point of Delivery at which electrical interconnection is made between the Facility and the Interconnection Provider's System.

"Electric Metering Device(s)" means all meters, submeters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to the Renewable Energy from the Facility.

"Eligible" means technically capable of production based on the then-existing design of the Facility (including equipment and interconnection).

"Emergency" means an emergency condition as defined under the Interconnection Agreement.

"Energy" means three-phase, 60-cycle alternating current electric energy, expressed in MWh.

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, and present a material risk under federal, state or local laws and regulations that the Site will not be available or usable for the purposes contemplated by this REPA.

"EPT" means Eastern Prevailing Time.

"Event of Default" shall have the meaning set forth in Article 12.

"Executive Order" shall have the meaning set forth in Section 4.4(B).

[redacted]

"Facility" means Seller's electric generating facility and Seller's Interconnection Facilities, as identified and described in Article 3 and Exhibit A to this REPA, including all of the following, the purpose of which is to produce electricity and deliver such electricity to the Point of Delivery: Seller's equipment, buildings, all of the generation facilities, including panels, inverters, step-up transformers, output breakers, facilities necessary to connect to the Point of Delivery, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably

necessary for the construction, operation, and maintenance of the electric generating facility that produces the Renewable Energy Products subject to this REPA.

"Facility Capacity" means the Capacity capable of being generated from the Facility based on the aggregate nameplate rating of all of the Solar Units comprising the Facility, but shall not exceed 7.5 MW AC (9.75 MW DC) at any point during the Term.

"Facility Financing" means the obligations of Seller or its Affiliates to any Facility Financier pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, return of equity invested, return on equity invested, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing.

"Facility Financing Representative" means, during any period when there is only one Facility Financier, the Facility Financier, and during any period when there is more than one Facility Financier, any trustee or agent on behalf of the Facility Financiers or such other single representative designated in writing by Seller.

"Facility Financiers" means, collectively, any lenders, tax equity investors or any other financiers providing any Facility Financing.

"Failure to Extend Condition" shall have the meaning set forth in Section 11.1(C)(1).

"Failure to Replace Condition" shall have the meaning set forth in Section 11.1(D).

[redacted]

"Federal Funds Effective Rate" means the rate for that day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H. 15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FERC" means the Federal Energy Regulatory Commission.

"Final Non-Appealable Orders" means with respect to Virginia, a final non-appealable order from the Virginia State Corporation Commission and, with respect to West Virginia, a final non-appealable order from the West Virginia Public Service Commission, in both cases (i) approving without modification this REPA, (ii) authorizing Purchaser to enter into this REPA, (iii) authorizing Purchaser to recover all of the Virginia or West Virginia, as applicable, jurisdictional share of the costs associated with the REPA through an appropriate recovery mechanism(s) and (iv) otherwise acceptable to Purchaser in its sole discretion.

"Financing Documents" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements, equity contribution or subscription agreements, partnership or limited liability agreements and other documents relating to the development, bridge, tax equity, construction or permanent debt financing for the Facility, including any credit enhancement, credit support, working capital financing, letter of credit facilities, and all such documents or agreements related to any refinancing or replacement of any of the foregoing, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller in connection with development, construction, ownership, leasing, operation or maintenance of the Facility.

"Force Majeure" shall have the meaning set forth in Section 14.1(A).

"Forced Outage" means any condition at the Facility that requires unplanned removal of the Facility, or some part thereof, from service, another outage state, or a reserve shutdown state. This type of outage results from, among other things, immediate mechanical, electrical or other control system trips and operator-initiated trips in response to Facility conditions or alarms.

"GATS" means the Generation Attribute Tracking System administered by PJM Environmental Information Services, Inc. ("PJM-EIS") and providing environmental and emissions attributes reporting and tracking services to its subscribers in support of renewable portfolio standards and other information disclosure requirements that may be implemented by Governmental Authorities. GATS tracks generation attributes and the ownership of the attributes as they are traded or used to meet standards of Governmental Authorities. GATS includes any successor tracking system or systems with the same or similar purpose administered by PJM-EIS.

"GATS Certificates" means certificates recognized by GATS and associated with the generation of electricity from the Facility.

"Good Utility Practice(s)" means the practices, methods, and acts (including the practices, methods, and acts engaged in or approved by a significant portion of the solar power generation industry, the Interconnection Provider or NERC) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Good Utility Practices are not intended to be the optimal practice, method or act to the exclusion of all others, but rather are intended to be any of the practices, methods or acts generally accepted for facilities similar to the Facility in the region in which the Facility is located during the relevant time period. With respect to the Facility, Good Utility Practice(s) includes taking reasonable steps to ensure that:

(A) equipment, materials, resources, and supplies, including spare parts inventories, are available in commercially reasonable quantities to meet the Facility's needs;

(B) sufficient operating personnel are available to operate the Facility on a 24 hour basis in accordance with reasonable solar industry operating practices for solar power generation equipment and are adequately experienced and trained and licensed as necessary to operate the Facility properly, efficiently, and in coordination with Purchaser and are capable of responding to reasonably foreseeable Emergency conditions whether caused by events on or off the Site;

(C) preventive, routine, and non-routine maintenance and repairs are performed on a basis that enables, to a commercially reasonable extent, reliable, long-term and safe operation, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

(D) appropriate monitoring and testing are performed to determine that equipment is functioning in compliance with this REPA;

(E) equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the interconnected system or in violation of Applicable Law; and

(F) equipment and components meet or exceed the standard of durability that is generally used for electric generation operations of this type in the region in which the Site is located and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site (which are not Force Majeure events) and under both normal and reasonably anticipated Emergency conditions (which are not Force Majeure events).

"Governmental Authority" means any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal.

"Guaranteed Availability" means an Availability of the Facility for each applicable Calculation Period during the Term equal to [redacted] multiplied by the Proration Factor, if applicable, with respect to any Contract Year that is not a full calendar year."

"Hazardous Materials" means any substance, material or particulate matter that is regulated by any Governmental Authority as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including protection of nonhuman forms of life, land, water, groundwater, and air, including any material or substance that is (i) defined as "toxic," "polluting," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "solid waste" or

"restricted hazardous waste" under any provision of local, state, or federal law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive material; (vi) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (vii) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6901); (viii) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601); (ix) defined as a "chemical substance" under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (x) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).

"Import Restriction Action" means the implementation by the U.S. Customs and Border Protection of a law, policy or action (including the issuance of a Form CF-28, Form CF-29, Withhold Release Holders, actions pursuant to the foregoing, or any other seizure or enforcement actions) that results in actual, material and reasonably unavoidable delay, restriction, prohibition or seizure of solar panels, inverters or other equipment to be used by the Facility.

[redacted]

"Independent Engineer" means an independent engineering firm mutually acceptable to the Parties.

"Interconnection Agreement" means the separate generation interconnection agreement between Seller, the Interconnection Provider for interconnection of the Facility to the Interconnection Provider's System, as such agreement may be amended from time to time.

"Interconnection Facilities" means the facilities necessary to connect Interconnection Provider's System to the Point of Delivery, including breakers, bus work, bus relays, and associated equipment installed by the Interconnection Provider for the direct purpose of interconnecting the Facility, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities. Arrangements for the installation and operation of the Interconnection Facilities shall be governed by the Interconnection Agreement.

"Interconnection Provider" means the Distribution Provider responsible for the operation of the Interconnection Facilities and other equipment and facilities with which the Facility interconnects at the Electric Interconnection Point.

"Interconnection Provider's System" means the contiguously interconnected electric transmission and/or distribution facilities, including Interconnection Provider's Interconnection Facilities over which the Interconnection

Provider has rights to manage the bulk transmission of Capacity and Energy from the Point of Delivery.

"Investment Tax Credits" or "ITCs" means the investment tax credit under Section 38 of the Code and determined under Sections 46 and 48 of the Code and the clean electricity investment tax credit as determined under Section 48E of the Code.

"Issuer" means (a) with respect to a Security Fund in the form of a letter of credit or Cash, an Acceptable Issuing Bank, or (b) with respect to a Security Fund in the form of a payment guaranty, a Creditworthy Entity; provided, that in either case such person (or its Affiliates) shall not then be engaged in any material dispute or litigation with Purchaser (or its Affiliates).

"Locational Marginal Price" or "LMP" means the hourly or sub-hourly, as applicable, integrated market clearing marginal price for Energy, including losses and congestion, at or closest to the Point of Delivery.

"Material Change" shall have the meaning set forth in Section 3.4.

"MW" means megawatt (AC), an amount of power equal to 1,000 kilowatts or 1,000,000 watts.

"MWh" means megawatt-hour, an amount of power equal to 1,000 kilowatt-hours or 1,000,000 watt-hours.

"NERC" means the North American Electric Reliability Corporation.

"NERC Holiday" means every Day other than a Saturday or Sunday which the NERC declares to be a holiday for power scheduling purposes.

"Non-Power Attributes" means any characteristic of the Facility related to its benefits to the environment, including any avoided, reduced, displaced or off-set emissions of pollutants to the air, soil or water such as sulfur dioxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO), mercury (Hg), particulates, and any other pollutant that is now or may in the future be regulated under federal, state or local pollution control laws, regulations or ordinances or any voluntary rules, guidelines or programs; and further include any avoided emissions of carbon dioxide (CO_2) and any other greenhouse gas (GHG) that contributes to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere. Non-Power Attributes do not include Renewable Energy Incentives.

"Operating Records" means operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that the Seller uses or maintains for the operation of the Facility.

[redacted]

[redacted]

[redacted]

"Party" or "Parties" shall have the meaning set forth in the preamble of this REPA.

"Penalties" means penalties imposed by Governmental Authorities.

[redacted]

"Person" means an individual, corporation, limited liability company, voluntary association, joint stock company, business trust, partnership, Governmental Authority, or other entity.

"PJM" means PJM Interconnection, LLC.

"PJM-EIS" means PJM Environmental Information Services, Inc.

"PJM Manuals and Agreements" means, collectively, (i) all instructions, rules, procedures and guidelines established by PJM, (ii) all documents and protocols issued by PJM and (iii) all agreements to which Seller, Purchaser or any Affiliates of Purchaser, on the one hand, and PJM, on the other hand, are parties, either bilaterally or in concert with other entities, as may be in effect from time to time, in each case for the operation, planning, and accounting requirements of PJM and the PJM Interchange Energy Market.

"PJM Node" means a pricing node established by PJM that represents the closest PJM pricing node to the Facility.

"PJM Amounts" means any scheduling, imbalance or other penalties, fees or charges as are now or at any time in the future assessed or imposed by PJM for failure to satisfy requirements of the PJM Manuals and Agreements.

"Point of Delivery" means the 34.5kV point, as shown on Exhibit F, at which point the quantities of Renewable Energy and, if applicable, Ancillary Services delivered are recorded and measured by the Interconnection Provider's revenue meters.

"Power Station" means each of those structures within the Facility containing an inverter, a step-up transformer, internal switchgear and monitoring equipment.

"Pre-Delivery Period Renewable Energy Production" means all Renewable Energy Products which are produced by the Facility prior to the commencement of the Delivery Period.

"Project Assets" means the Facility, the Site and all of Seller's engineering, procurement, construction, operations, maintenance, environmental, regulatory and financial books and records related to the Facility and the Site, together with all other tangible and intangible assets owned, leased or otherwise held by Seller.

"Proration Factor" means, if the Contract Year in which the Delivery Period commences or the Contract Year in which this REPA is terminated or expires is less than a full calendar year, then, with respect to such Contract Year, an amount equal to a fraction, the numerator of which is the number of Days falling within the Delivery Period in such Contract Year, and the denominator of which is 365 or 366, as applicable to the calendar year that includes such Contract Year.

"PSA" shall have the meaning set forth in Section 19.3(E).

[redacted]

"Purchaser Representative" shall have the meaning set forth in Section 19.3(B).

"Qualified Operator" means a Person that has (i) substantial experience in operating and maintaining solar photovoltaic electric generation facilities in the United States and (ii) met all applicable requirements under Applicable Law for operating and maintaining the Facility, including the requirements of the Interconnection Provider. A Person will be deemed to have such substantial experience if it is a Person that has at [redacted] of experience in operating and maintaining solar photovoltaic electric generation facilities in the United States.

"Reliability Curtailment" means any curtailment of delivery of Renewable Energy resulting from (i) an Emergency, (ii) any other order or directive of the Interconnection Provider, the Transmission Provider, the Transmission Operator or the RFC, or Distribution Provider which order or directive may be directly communicated to Seller by the Interconnection Provider, the Transmission Provider, the Transmission Operator the Distribution Provider or the RFC or indirectly to Seller by Purchaser promptly upon receipt thereof, (iii) Seller's failure to maintain in full force and effect any permit, consent, license, approval, or authorization from any Governmental Authority required by

law to construct or operate the Facility, or (iv) Seller's operation of the Facility in a manner inconsistent with Good Utility Practices.

"Renewable Energy" means the net electric Energy generated exclusively by the Facility from the sun and delivered to the Point of Delivery as measured by the Electric Metering Devices installed pursuant to Section 5.4. Renewable Energy shall be of a power quality of 60 cycle, three-phase alternating current that is compliant with the Interconnection Agreement.

"Renewable Energy Certificate" or "REC" means any credit, certificate, allowance or similar right that is related to the Non-Power Attributes of the Facility, whether arising pursuant to law, regulation, certification, markets, trading, off-set, private transaction, renewable portfolio standards, voluntary programs or otherwise.

"Renewable Energy Incentive" means: (a) federal, state, and local tax credits or other tax incentives associated with the construction, ownership, or production of electricity from the Facility (including Investment Tax Credits, credits under Sections 38 and 45, 45Y, 48 and 48E of the Internal Revenue Code as in effect from time to time during the Term and any grants paid in lieu thereof); (b) any federal, state, and local governmental or nongovernmental payments, grants or other negotiable attributes relating in any way to the Facility or the output thereof; and (c) any other form of incentive that is not a Non-Power Attribute or Beneficial Environmental Interest that is available with respect to the Facility.

"Renewable Energy Products" means, collectively, the Renewable Energy and Ancillary Services, if applicable, produced by the Facility and all of the associated Capacity, RECs and other Beneficial Environmental Interests.

"REPA" means this Renewable Energy Purchase Agreement between Seller and Purchaser, including the Exhibits attached hereto.

[redacted]

"ROFO Notice" shall have the meaning set forth in Section 19.2(A).

"ROFO Period" shall have the meaning set forth in Section 19.2(A).

"RFC" means the Reliability First Corporation, one of the eight regional reliability councils approved by the North American Electric Reliability Corporation (NERC), and any successor regional reliability organization having jurisdiction over the Facility.

"Scheduled Outage/Derating" means a planned interruption or reduction of the Facility's generation by Seller that both (i) has been coordinated in advance with Purchaser, with a mutually agreed start date and duration in accordance with Section 10.8, and (ii) is required for inspection, or preventive or corrective maintenance.

"Security Fund" means the performance security that Seller is required to establish and maintain, pursuant to Section 11.1, as security for its performance under this REPA.

[redacted]

"Seller's Interconnection Facilities" means the equipment between the high side disconnect of the step-up transformer and the Point of Delivery, including all related relaying protection and physical structures as well as all transmission facilities required to access the Interconnection Provider's System at the Point of Delivery, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities. On the high side of the step-up transformer it includes Seller's load control equipment as provided for in the Interconnection Agreement. This equipment is located within the Site and is conceptually depicted in Exhibit A to this REPA.

[redacted]

"Shortfall Notice Date" shall have the meaning set forth in Section 12.1(F).

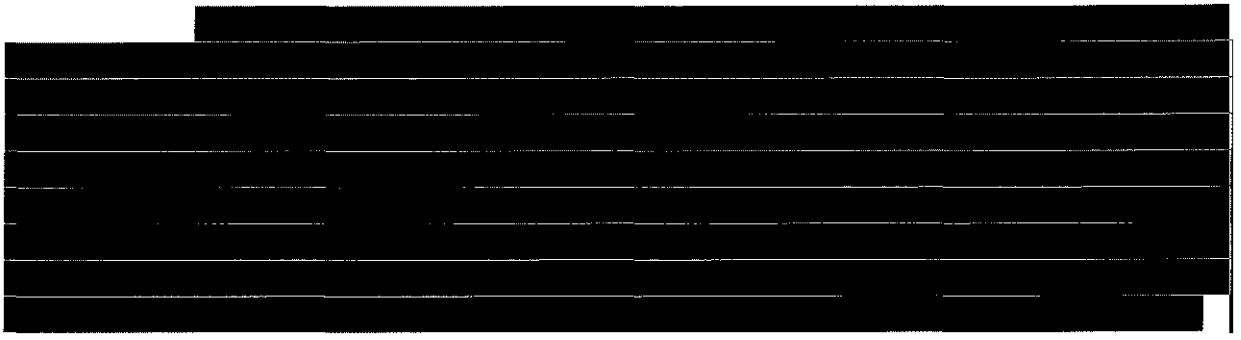
"Site" means the parcel or parcels of real property on which the Facility will be constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of the Facility. The Site is more specifically described in Section 3.2 and Exhibit A to this REPA.

"Solar Unit" means each unit of devices for collecting sunlight and generating electricity at the Facility, consisting of photovoltaic modules, a Power Station, and associated racking systems, collection lines, circuits and related equipment.

"Standard Test Conditions" means the conditions at which the photovoltaic (PV) modules comprising the Facility are tested to determine the module nominal power output and performance characteristics. The Standard Test Conditions are defined to be an irradiance value of 1,000 W/m^2, a relative air mass of 1.5, and 25°C (77°F) cell temperature.

"Tax" or "Taxes" shall have the meaning set forth in Section 20.2(B).

"Term" means the period of time during which this REPA shall remain in full force and effect, and which is further defined in Article 2.



"Transmission Operator" means PJM or any successor independent system operator, regional transmission operator or other transmission operator from time to time having authority to control the transmission Control Area to which the Facility is interconnected.

"Transmission Provider" means any Person or Persons that owns, operates or controls facilities used for the transmission of Energy from the Facility in interstate commerce.

"Ultimate Parent" means, with respect to Seller, Holocene Finance, LLC.

"Weather Station" shall have the meaning set forth in Section 3.3(D).

"Wildlife Permit Restrictions" means any (i) incidental take permit issued to Seller or (ii) avian, bat or other wildlife mitigation plan imposed on Seller, by the United States Fish and Wildlife Service or other permitting authority, in either case that restricts Seller's ability to lawfully operate the Facility.

ARTICLE 2
TERM AND TERMINATION

This REPA shall become effective as of the date of its execution, and shall remain in full force and effect until the end of the twenty-eighth (28th) Contract Year after the Delivery Period commences (the "Term"), unless terminated earlier in accordance with the terms and conditions hereof. Applicable provisions of this REPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete

the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this REPA, repayment of principal and interest associated with the Security Fund, the indemnifications specified in this REPA, and the resolution of Disputes between the Parties.

ARTICLE 3
FACILITY DESCRIPTION

3.1 Summary Description.

Seller shall construct, own, operate, and maintain the Facility, which shall consist of [redacted] and associated equipment having a total nameplate capacity of 7.5 MW AC (9.75 MW DC). Seller shall secure solar panels, inverters and other equipment for the Facility from manufacturers and suppliers that are not subject to any Import Restriction Action, and Seller shall not change the manufacturer or model of any of the equipment described in Exhibit A without Purchaser's prior, written consent. If Seller installs one or more additional phases at the Site, Seller shall enter into a separate interconnection agreement such that Renewable Energy delivered under this REPA is delivered, metered and scheduled separately from the renewable energy generated by any such additional phase. Exhibit A to this REPA provides a detailed description of the Facility, including identification of the equipment and components, which make up the Facility which Seller shall supplement once the final design for the Facility is determined, which supplement shall include the number of photovoltaic modules in the Facility. The aggregate nameplate MW rating of the Facility shall be 7.5 MW AC throughout the Term.

3.2 Location.

The Facility shall be located on the Site and shall be identified as Seller's HCE Collier Solar Facility. The Facility is located in Wise County, Virginia. A scaled map that identifies the Site, the location of the Facility at the Site, the location of the Point of Delivery and the location of the important ancillary facilities and Interconnection Facilities, is included in Exhibit A to this REPA.

3.3 General Design of the Facility.

Seller shall construct the Facility in accordance with Good Utility Practice(s), the Interconnection Agreement and rules of the Interconnection Provider, including, if applicable, the PJM Manuals and Agreements. Seller shall maintain the Facility according to Good Utility Practice(s) and the Interconnection Agreement. In addition to the requirements of the Interconnection Agreement, the design of the Facility shall at all times include:

(A) metering accuracy current transformers and voltage transformers located at the Point of Delivery (or some other point mutually agreed to by the Parties) as required to connect to the Electric Metering Devices.

(B) the required panel space and 125V DC battery supplied voltage to accommodate Purchaser's metering, telemetering equipment and Communications Equipment;

(C) the Communications Equipment; and

(D) suitable solar irradiation and meteorological meters of the types necessary to monitor and measure the solar resource and ambient conditions at the Site to support calculations under this REPA, including the estimation of the quantity of Renewable Energy designated as Curtailment Energy under Section 7.4 (each, a "Weather Station"). Such Weather Stations shall be calibrated by Seller at its cost annually in accordance with Good Utility Practice(s) and the standards described in item 1 of Exhibit G to this REPA.

3.4 Changes to Facility.

Following the Commercial Operation Date, Seller shall not make any Material Change to the design, construction or operation of the Facility, whether or not in accordance with the Design Requirements, without Purchaser's prior, written consent. Any Material Change shall be completed in accordance with the Design Requirements. [redacted]

ARTICLE 4
COMMERCIAL OPERATION

4.1 Commercial Operation.

Subject to Section 4.10, the Facility shall achieve the Commercial Operation Date, and shall be fully capable of reliably producing the Renewable Energy Products to be provided under this REPA and delivering such Renewable Energy Products to Purchaser at the Point of Delivery, no later than the Commercial Operation Milestone.

4.2 Wildlife Studies and Siting;.

(A) Seller shall conduct such wildlife studies with respect to the Site and the Facility as prudent to understand site use and risks to species protected by applicable federal, state or local laws.

(B) Seller shall provide to Purchaser, promptly after issuance, a true and complete copy of any Wildlife Permit Restrictions issued with respect to the Facility.

4.3 Site Report.

Seller shall conduct a Phase I environmental investigation of the Site and shall provide Purchaser, on or before sixty (60) days after the execution of this REPA, with a copy of the draft report summarizing such investigation, together with any data or information generated pursuant to such investigation.

4.4 Facility Contracts.

(A) Seller shall provide to Purchaser, within ninety (90) Days after Purchaser either satisfies or waives the Purchaser condition precedent in Article 6, a certificate of an officer of Seller, in a form reasonably acceptable to Purchaser, stating that Seller has sufficient Solar Units under contract to satisfy its obligations hereunder. Upon reasonable notice and request by Purchaser, Seller shall provide Purchaser with copies of major engineering drawings relating to the Facility. Information that is commercially sensitive, confidential or proprietary, as reasonably determined by Seller, may be redacted from the documents provided to Purchaser pursuant to this paragraph. All such information shall be treated as confidential information subject to Section 20.15 hereof. Seller shall provide sufficient information for Purchaser to be reasonably assured that Seller has contracted with financially responsible vendors as part of the Facility construction process.

4.5 Progress Reports.

Commencing upon the execution of this REPA and until construction begins, Seller shall submit to Purchaser each calendar quarter reports regarding the development process and permitting, and upon commencement of construction of the Facility, Seller shall submit to Purchaser, within the first fifteen (15) Days of each calendar month until the Commercial Operation Date is achieved, reports regarding development and construction progress in a form reasonably satisfactory to Purchaser. These progress reports shall describe the status of the development and construction of the Facility as of the end of the preceding month, including (a) a description of the progress of development and construction based on a comprehensive list of all of Seller's deliverables required under this REPA (including the Conditions to COD set forth in Section 4.7), (b) an explanation of any material changes in the development and construction schedule and (c) an estimate of the Commercial Operation Date. Commencing upon the date that is two months prior to the earlier of (x) the Commercial Operation Milestone and (y) the estimated Commercial Operation Date, Seller will additionally advise Purchaser weekly on the status of Solar Unit commissioning until the Commercial Operation Date is achieved.

4.6 Purchaser's Rights During Construction.

Purchaser shall have the right to monitor the construction, start-up and testing of the Facility during normal business operating hours, and Seller shall comply with all reasonable requests of Purchaser with respect to the monitoring of these events, provided, however, that Purchaser provides Seller reasonable advance written notice, shall not unreasonably interfere with or disrupt the activities of the Seller. Seller shall cooperate in such physical inspections of the Facility as may be reasonably requested by Purchaser during and after completion of construction. All persons visiting the Facility on behalf of Purchaser shall comply with all of Seller's applicable safety and health rules and requirements. Purchaser's technical review and inspection of the Facility shall not be construed as endorsing the design thereof nor as any warranty of safety, durability, or reliability of the Facility, nor shall Purchaser's review and inspection of the Facility constitute a waiver by Purchase or any right or remedy hereunder.

4.7 Conditions to Commercial Operation.

Seller shall notify Purchaser when the Facility has achieved the Commercial Operation Date, which notice shall not be unreasonably withheld or delayed by Seller. This notification is contingent upon Seller providing evidence reasonably acceptable to Purchaser of the satisfaction or occurrence of all of the conditions set forth in this Section 4.7 ("Conditions") and shall include a certification by Seller to that effect. The Parties agree that review and approval of such Conditions may occur on an ongoing and incremental basis, pending resolution of any dispute, as such Conditions are satisfied. The Conditions are:

(A) Seller has successfully completed all testing of the Facility that is required by the Financing Documents, the Facility's permits issued by Governmental Authorities, the Interconnection Agreement, Seller's module supply, inverter supply and balance of plant construction contracts for the Facility and manufacturers' warranties for the commencement of commercial operations at the Facility;

(B) an officer of Seller, familiar with the Facility, has provided a list of the Facility's major equipment, including the make, model and serial number of all photovoltaic modules, inverters, step-up transformers, switchgear and Weather Stations;

(C) the Facility has achieved initial synchronization with the Interconnection Provider's System;

(D) an Independent Engineer's certification has been obtained by Seller stating (i) that the Facility has been completed in all material respects (excepting punch list items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this REPA and (ii) the designed maximum output of the entire Facility, which total shall not exceed 7.5 MW AC (9.75 MW DC);

(E) the interconnection of the Facility to the Interconnection Provider's System has been completed in accordance with the Interconnection Agreement and has

operated at a generation level acceptable to the Interconnection Provider in accordance with the operating requirements of the Interconnection Agreement;

(F) Seller has made all arrangements and executed all agreements required to deliver the Renewable Energy from the Facility to the Point of Delivery in accordance with the provisions of this REPA;

(G) Seller shall have demonstrated to Purchaser's reasonable satisfaction that it can reliably transmit real time data and measurements to Purchaser (i) in accordance with the requirements of the Interconnection Agreement and (ii) in accordance with the requirements of Exhibit G, including the data and measurements from the Weather Stations and data and measurements with respect [redacted]

(H) all arrangements for the supply of required electric services to the Facility, including the supply of start-up and shutdown power and Energy, house power and maintenance power have been completed by Seller separate from this REPA, are in effect, and are available for the supply of such electric services to the Facility;

(I) the Security Fund meeting the requirements of Article 11 has been established;

(J) certificates of insurance evidencing the coverages required by Article 16 have been obtained and submitted to Purchaser;

(K) Seller has submitted to Purchaser a certificate of an officer of Seller familiar with the Facility after due inquiry stating that (i) all permits, consents, licenses, approvals, and authorizations required to be obtained by Seller from any Governmental Authority to construct and operate the Facility in compliance with Applicable Law and this REPA have been obtained and are in full force and effect; (ii) Seller is otherwise in compliance with the terms and conditions of this REPA in all material respects;

(L) Seller has made all necessary filings and applications with Governmental Authorities for accreditation and participation in GATS and in any other applicable federal and state REC certification program pursuant to Section 10.9;

(M) Seller shall have provided the following items to Purchaser at least ninety (90) Days prior to the Commercial Operation Date: (1) the Facility layout of the Site with the latitude and longitude and solar module specification sheets; (2) a non-binding, good faith 12 month x 24 hour forecast of net Energy production from the Facility; and (3) historical solar data for the Site; provided that the data set forth in the foregoing item (1) above shall be updated and re-submitted to the Purchaser no later than five (5) Business Days after the Commercial Operation Date;

(N) The Contract Administration Committee shall have developed the Contract Administration Procedures in accordance with Section 10.3(B);

(O) Seller shall have provided Purchaser with a copy of the final Phase I environmental report referred to in Section 4.3 and either (i) such report shall confirm that no conditions involving Environmental Contamination exist at or under the Site that would materially impact performance of Seller's obligations under this REPA or (ii) Seller shall have provided to Purchaser prior to the Commercial Operation Date a remediation plan for removal of such Environmental Contamination;

(P) Seller shall have provided Purchaser with a copy of the final wildlife studies referred to in Section 4.2 and either (i) such studies shall confirm that no federal or state protected threatened and endangered species or other legally protected wildlife exist at, under or above the Site that would materially impact performance of Seller's obligations under this REPA or (ii) Seller shall have provided to Purchaser prior to the Commercial Operation Date copies of all applicable Wildlife Permit Restrictions;

(Q) Seller shall have provided Purchaser with a copy of the final wildlife studies and documentation referred to in Section 4.2 and either (i) such studies shall confirm that no federally or state designated threatened or endangered species or other legally protected wildlife (including, but not limited to, species protected by the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act or state law) exists at, under or above the Site that would materially impact performance of Seller's obligations under this REPA or (ii) Seller shall have provided to Purchaser prior to the Commercial Operation Date copies of all applicable Wildlife Permit Restrictions;

(R) Seller shall have demonstrated that it is a Qualified Operator or that Seller has engaged a Qualified Operator to operate and maintain the Facility, consistent with its representation in Section 10.1; and

4.8 Pre-Delivery Period Renewable Energy Production.

Seller shall coordinate the production and delivery of Pre-Delivery Period Renewable Energy Production with the Purchaser and Interconnection Provider. Purchaser shall cooperate with Seller to facilitate Seller's testing of the Facility necessary to satisfy the Conditions set forth in Section 4.7.

4.9 QF Waiver. For so long as this REPA is in effect, Seller waives, and agrees not to assert, the rights Seller may have against Purchaser to cause Purchaser to purchase or transmit energy or capacity pursuant to 18 C.F.R. Section 292.303 or Section 292.304 by virtue of the status of the Facility as a qualifying cogeneration facility as defined in the Public Utility Regulatory Policies Act of 1978, as amended

4.10 Delay Liquidated Damages.

If Seller fails to meet the Commercial Operation Milestone, Seller shall pay damages to Purchaser on account of such delay ("Delay Liquidated Damages") in the amount of [redacted] commencing on the Day after the Commercial Operation Milestone and ending on the date that the

Commercial Operation Date is achieved. Each Party agrees and acknowledges that (i) the damages that Purchaser would incur due to a delay in the achievement of the Commercial Operation Date by the Commercial Operation Milestone would be difficult or impossible to predict with certainty, (ii) the Delay Liquidated Damages contemplated by this provision are a fair and reasonable calculation of such damages, and (iii) the required payment by Seller of such Delay Liquidated Damages shall be Purchaser's sole remedy for such delay and the Facility's failure to achieve the Commercial Operation Date by the Commercial Operation Milestone. A delay in the Commercial Operation Date shall not be an Event of Default, except as provided in Section 12.1(E).

ARTICLE 5
DELIVERY AND METERING

5.1 Seller's and Purchaser's Obligations.

Subject to, and in accordance with, the terms and conditions of this REPA, Purchaser does hereby agree to purchase and pay for, and Seller does hereby agree to sell and deliver, or cause to be delivered, all of the Renewable Energy Products generated by the Facility during the Delivery Period. Purchaser shall have the exclusive right to purchase and receive all of such Renewable Energy Products during the Delivery Period, with the exception of Energy produced by Seller for its own use at the Facility for station power. Seller shall not offer, sell or make available or dispatch any of such Renewable Energy Products to or for the benefit of Seller (except for its own use at the Facility for station power) or any other Person during the Delivery Period, other than to Purchaser.

5.2 Required Operation.

Except to the extent the Facility is actually unavailable or limited (including in accordance with Good Utility Practice(s)), Seller shall operate the Facility to provide the Renewable Energy Products to Purchaser in all daylight hours of the Delivery Period. Seller agrees that, notwithstanding anything herein to the contrary, Seller will not curtail or otherwise reduce deliveries of Renewable Energy Products in order to sell such Renewable Energy Products to other purchasers.

5.3 Delivery Arrangements.

(A) Seller shall be responsible for all interconnection, electric losses and costs required to deliver the Renewable Energy from the Facility to Purchaser at the Point of Delivery. Purchaser shall be responsible for all electric losses and costs required to receive the Renewable Energy at the Point of Delivery and deliver such Energy to points beyond the Point of Delivery.

(B) Seller shall be responsible for paying any and all distribution upgrade costs identified as Seller's responsibility in the Interconnection Agreement.

(C) In the event Purchaser subsequently desires to create an aggregate Capacity Resource (as recognized by PJM), Seller shall reasonably cooperate with

providing all data and information necessary to qualify the Facility as part of an aggregate Capacity Resource under PJM.

5.4 Electric Metering Devices.

Seller will comply with the terms and conditions of the Interconnection Agreement. The following provisions on Electric Metering Devices shall apply only to the extent they do not conflict with the performing Party's rights and obligations under the Interconnection Agreement

(A) All Electric Metering Devices used to measure the Renewable Energy made available to Purchaser by Seller under this REPA and to monitor and coordinate operation of the Facility shall be owned, installed, and maintained by Seller according to Good Utility Practice. Such Electric Metering Devices shall measure only the Renewable Energy delivered to Purchaser from the Solar Units commissioned under this REPA and not from any other solar units installed on the Site, which solar units shall not comprise the Facility even though they may share the same Point of Delivery or revenue meter with the Solar Units commissioned under this REPA. If the Electric Metering Devices are sub-meters, the amount of Renewable Energy delivered to Purchaser and measured by such Electric Metering Devices shall be reduced to account for the losses of Renewable Energy between the Point of Delivery and such Electric Metering Devices. All Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Article. Seller shall specify the number, type, and location of such Electric Metering Devices.

(B) Seller, at its own expense, shall inspect and test all Electric Metering Devices upon installation and at least annually thereafter. Seller shall provide Purchaser with reasonable advance notice of, and permit a representative of Purchaser to witness and verify, inspections and tests of the Electric Metering Devices, provided, however, that Purchaser shall not unreasonably interfere with or disrupt the activities of Seller and shall comply with all of Seller's safety standards. Upon request by Purchaser, Seller shall perform additional inspections or tests of any Electric Metering Device and shall permit a qualified representative of Purchaser to inspect or witness the testing of any Electric Metering Device, provided, however, that Purchaser shall not unreasonably interfere with or disrupt the activities of Seller and shall comply with all of Seller's safety standards. The actual expense of any such requested additional inspection of testing shall be borne by Purchaser, unless upon such inspection or testing an Electric Metering Device is found to register inaccurately by more than the allowable limits established in this Article, in which event the expense of the requested additional inspection or testing shall be borne by Seller. If requested by Purchaser in writing, Seller shall provide copies of any inspection or testing reports to Purchaser.

(C) Purchaser and Seller each may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering") in addition to the Electric Metering Devices. Each Party, at its own expense, shall inspect and test its Back-Up

Metering upon installation and at least annually thereafter. Each Party shall provide the other Party with reasonable advance notice of, and permit a representative of the other Party to witness and verify, such inspections and tests, provided, however, that the observing Party shall not unreasonably interfere with or disrupt the activities of the testing Party and shall comply with all of the testing Party's safety standards. Upon request by a Party, the other Party shall perform additional inspections or tests of its Back-Up Metering and shall permit a qualified representative of the requesting Party to inspect or witness the testing of such Back-Up Metering, provided, however, that the observing Party shall not unreasonably interfere with or disrupt the activities of the testing Party and shall comply with all of the testing Party's safety standards. The actual expense of any such requested additional inspection or testing shall be borne by the requesting Party, unless, upon such inspection or testing, the Back-Up Metering is found to register inaccurately by more than the allowable limits established in this Article, in which event the expense of the requested additional inspection or testing shall be borne by the testing Party. If requested by the requesting Party in writing, the testing Party shall provide copies of any inspection or testing reports to the requesting Party.

(D) If any Electric Metering Devices, or any Back-Up Metering, are found to be defective or inaccurate, they shall be adjusted, repaired, replaced, or recalibrated as near as practicable to a condition of zero error by the Party owning such defective or inaccurate device and at that Party's expense. The Party discovering such defect or inaccuracy shall promptly notify the other Party of such discovery.

5.5 Adjustment for Inaccurate Meters.

The following provisions on Adjustment for Inaccurate Meters shall apply only to the extent they do not conflict with the performing Party's rights and obligations under the Interconnection Agreement.

(A) If an Electric Metering Device, or Back-Up Metering, fails to register, or if the measurement made by an Electric Metering Device, or Back-Up Metering, is found upon testing to be inaccurate by more than [redacted] from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device, or Back-Up Metering, for both the amount of the inaccuracy and the period of the inaccuracy, in the manner set forth in Section 5.5(B), (C) and (D) below.

(B) In the event that the Electric Metering Device is found to be defective or inaccurate, the Parties shall use the Back-Up Metering, if installed, to determine the amount of such inaccuracy, provided that the Back-Up Metering has been tested and maintained in accordance with the provisions of this Article. If both Parties have installed Back-Up Metering, and the Back-Up Metering of both Parties is inaccurate by not more than [redacted] from the measurements made by the standard meter used in the test, the readings from the Back-Up Metering whose readings most closely conform with the measurements made by the standard meter shall be used. In the event that neither Party has installed Back-Up Metering, or the Back-Up Metering is also found to be inaccurate by more than [redacted] from the measurement made by the standard

meter used in the test, the Parties shall estimate the amount of the necessary adjustment on the basis of deliveries of Renewable Energy from the Facility during periods of similar operating conditions when the Electric Metering Device was registering accurately. The adjustment shall be made for the period during which inaccurate measurements were made.

(C) In the event that the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (i) the last one-half of the period from the last previous test of the Electric Metering Device to the test that found the Electric Metering Device to be defective or inaccurate, or (ii) the one hundred eighty (180) Days immediately preceding the test that found the Electric Metering Device to be defective or inaccurate.

(D) To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Purchaser, Purchaser shall use the corrected measurements as determined in accordance with this Article to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Purchaser for this period from such re-computed amount. If the difference is a positive number, the difference shall be paid by Purchaser to Seller; if the difference is a negative number, that difference shall be paid by Seller to Purchaser, or at the discretion of Purchaser, may take the form of an offset to payments due Seller by Purchaser (or by payment to Purchaser, if sufficient payments do not remain to offset). Payment of such difference by the owing Party shall be made not later than thirty (30) Days after the owing Party receives notice of the amount due, unless Purchaser elects payment via an offset.

ARTICLE 6
CONDITIONS PRECEDENT

(A) Unless waived by Purchaser in writing or deemed waived pursuant to the provisions of this Article 6, it shall be a condition precedent to the Parties' obligations under this REPA that Purchaser has obtained the Final Non-Appealable Orders.

(B) As soon as practical, and in accordance with applicable law and regulatory orders, after execution of this REPA but in no case later than sixty (60) Days after execution of the REPA, Purchaser may, but shall not be obligated to, initiate the process to obtain the Final Non-Appealable Orders from the Virginia State Corporation Commission and the Public Service Commission of West Virginia, respectively. Upon submission of applications to obtain the Final Non-Appealable Orders, Seller acknowledges and agrees that the form(s) of Purchaser's application(s) (approval applications or otherwise) to the Virginia State Corporation Commission and Public Service Commission of West Virginia for the Final Non-Appealable Orders, including cost recovery, and the conduct by Purchaser of any proceedings, including any settlement or appeal, related to or arising from such approval applications shall be determined in the sole discretion of Purchaser. If Purchaser fails to initiate the process to obtain the Final Non-Appealable Orders in accordance with this Article, the condition precedent in Article

6(A) shall be deemed waived and this REPA shall remain in full force and effect thereafter. For the avoidance of doubt, Purchaser initiating the process to obtain the Final Non-Appealable Orders before at least one of the State Commissions (Virginia State Corporation Commission or the Public Service Commission of West Virginia) shall be deemed as Purchaser initiating the process under Article 6(A).

(C) After Purchaser initiates the process to obtain the Final Non-Appealable Orders during such sixty (60) Day period, Purchaser shall use its commercially reasonable efforts to obtain such Final Non-Appealable Order as soon as reasonably practicable, but if despite commercially reasonable efforts, Purchaser is unable to obtain the Final Non-Appealable Orders on or before the date that is 365 days after date of this REPA, Purchaser, by notice to Seller delivered on or prior to fifteen (15) Days thereafter, may terminate this REPA without any financial or other obligation by either Party arising out of such termination except that Purchaser shall return the Security Fund to Seller. If Purchaser fails to deliver such a notice of termination during such fifteen (15) Day period, the condition precedent in Article 6(A) shall be deemed waived and this REPA shall remain in full force and effect thereafter.

ARTICLE 7
SALE AND PURCHASE OF RENEWABLE ENERGY

7.1 Sale and Purchase.

Beginning on the Commercial Operation Date, Seller shall generate from the Facility, deliver to the Point of Delivery, and sell to Purchaser, and Purchaser shall purchase and pay for, at the Contract Rate, all Renewable Energy Products generated by the Facility. Purchaser shall have no obligation to pay for any Energy that has not actually been generated by the Facility, measured by the Electric Metering Device(s) and delivered to Purchaser at the Point of Delivery, [redacted]

7.2 Guaranteed Availability.

(A) Seller guarantees an Availability of the Facility for each Calculation Period during the Term equal to the Guaranteed Availability.

(B) If the [redacted]

(C) If an [redacted] occurs in any Calculation Period, Seller shall pay Purchaser, as [redacted]

(D) On or prior to January 31 of each Contract Year, Seller shall deliver to Purchaser an outage summary for the prior Calculation Period that is sourced from PJM's Generator Availability Data System (eGADS) accompanied by a statement showing Seller's computation of the [redacted], if any, for the prior Calculation Period. To the extent required, Seller shall true up any such statement as promptly as practicable following its receipt of actual results for the relevant Calculation Period. Based on such statement, Purchaser shall calculate and issue a statement to Seller for the amount due Purchaser for [redacted] pursuant to Section 7.2(C) in respect thereof. Seller shall pay the amounts due under each such invoice within thirty (30) Days of receipt thereof.

(E) Each Party agrees and acknowledges that (i) the damages that Purchaser would incur due to the Facility's failure to achieve the [redacted] would be difficult or impossible to predict with certainty, (ii) the [redacted] contemplated by this provision are a fair and reasonable calculation of such [redacted], and (iii) the required payment by Seller of such [redacted] shall be Purchaser's sole remedy for such [redacted] and the Facility's failure to achieve the [redacted]. An [redacted] shall not be an Event of Default, except as provided in Section 12.1(F).

7.3 Title and Risk of Loss.

As between the Parties, Seller shall be deemed to be in control of the Renewable Energy output from the Facility up to the Point of Delivery, and Purchaser shall be deemed to be in control of such Renewable Energy output from and after the Point of Delivery. Title to and risk of loss of the Renewable Energy delivered by Seller to Purchaser hereunder shall transfer from Seller to Purchaser at the Point of Delivery. Title to and risk of loss of the Renewable Energy Certificates and any Comparable Renewable Energy Certificates shall pass from Seller to Purchaser as provided in the rules governing GATS.

7.4 Curtailments.

(A) Seller shall at all times during the Term comply with the directives of the Interconnection Provider given pursuant to the Interconnection Agreement. In addition, Purchaser shall have the right to notify Seller, by telephonic communication or other method as reasonably determined by Purchaser, of a Reliability Curtailment directed by the Interconnection Provider [redacted]. In all cases of Reliability Curtailment, Seller shall reduce the net Energy delivered by the Facility at the Point of Delivery to the level directed by the Interconnection Provider. If Purchaser receives any such directive of Reliability Curtailment, Purchaser shall promptly notify Seller of the maximum amount of Renewable Energy, if any, during such Reliability Curtailment that Seller may continue to deliver and the duration thereof, and Seller shall ensure that the amount of net Energy delivered by the Facility at the Point of Delivery

does not exceed such amount for such duration. If Seller receives any such directive of Reliability Curtailment, Seller shall (i) promptly (and in any event within thirty (30) minutes) notify Purchaser by phone (followed by electronic mail) of the maximum amount of Renewable Energy, if any, during such Reliability Curtailment that Seller may continue to deliver and the duration thereof, if such duration is known to the Seller, (ii) promptly (and in any event within thirty (30) minutes) notify Purchaser of any change to such amount or duration, if any, and (iii) ensure that the amount of net Energy delivered by the Facility at the Point of Delivery does not exceed any such amount for any such duration. Except as provided in Section 7.1, no compensation shall be due from Purchaser to Seller as a result of any curtailment of the Facility's generation arising from any Reliability Curtailment directed by the Interconnection Provider.

[redacted]

(C) Each Party agrees and acknowledges that (i) the damages that Seller would incur due to a [redacted] by Purchaser would be difficult or impossible to predict with certainty, (ii) the amounts contemplated by Section 7.4(B) are a fair and reasonable calculation of such damages, and (iii) the required payment by Purchaser of such amounts shall be Seller's sole remedy [redacted]

7.5 Renewable Energy Incentives.

(A) If, for any reason, Seller does not receive the Renewable Energy Incentives for any period, the cost of Renewable Energy Products delivered to Purchaser under this REPA shall not be affected, and the risk of not obtaining the Renewable Energy Incentives shall be borne solely by Seller.

(B) Seller shall be entitled to all Renewable Energy Incentives, and Purchaser acknowledges that Seller has the right to sell or transfer the Renewable Energy

Incentives, at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Purchaser hereunder. Purchaser shall have no claim, right or interest in such Renewable Energy Incentives or in any amount that Seller realized from the sale of such incentives.

ARTICLE 8
PAYMENT CALCULATIONS

8.1 Payments at Contract Rate.

Commencing on the first Day of the Delivery Period, Purchaser shall pay Seller for(i) Renewable Energy delivered to Purchaser by Seller to the Point of Delivery and for other Renewable Energy Products associated therewith [redacted]

8.2 No Payment Obligation.

For avoidance of doubt, Purchaser shall not be obligated to make any payment to Seller under Section 8.1 for any Energy which, regardless of reason or event of Force Majeure affecting either Party, (i) does not qualify as Renewable Energy, (ii) is not measured by the Electric Metering Device(s) installed pursuant to Section 5.4, as such measurement may be adjusted pursuant to Section 5.5, or (iii) is delivered to Purchaser at a location other than the Point of Delivery.

ARTICLE 9
BILLING AND PAYMENT

9.1 Billing Invoices.

The monthly billing period shall be the calendar month. No later than ten (10) Business Days after the end of each calendar month, Seller shall provide to Purchaser, electronically, an invoice for the amount due Seller by Purchaser for the services provided by Seller and purchased by Purchaser, under this REPA, for each monthly billing period. In each case, Seller's invoice will show: (a) with respect to the previous calendar month, all billing parameters, the Contract Rate, any adjustments (including those made pursuant to Section 9.3), and any other data reasonably pertinent to the calculation of monthly payments due to Seller; and (b) with respect to the calendar month immediately prior to the previous calendar month, [redacted]

9.2 Payments.

Unless otherwise specified herein, payments due under this REPA shall be due and payable on or before the later of (i) the twentieth (20th) Day of the month following the month to which such payment relates and (ii) the tenth (10th) Business Day following

receipt of the billing invoice. Unless Seller directs Purchaser otherwise, all payments by Purchaser to Seller shall be made by electronic funds transfer. If the amount due is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated using an annual interest rate equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such Day (or if not published on such Day on the most recent preceding Day on which published), plus two percent (2%). If the due date occurs on a Day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

9.3 Billing Disputes.

Purchaser may dispute invoiced amounts on or prior to the second (2nd) anniversary of the issuance of the invoice related to such invoiced amounts, but shall pay to Seller the undisputed portion of invoiced amounts on or before the invoice due date. To resolve any billing dispute, the Parties shall use the procedures set forth in Section 13.9. When the billing dispute is resolved, the Party owing shall pay the amount owed within ten (10) Business Days of the date of such resolution, with late payment interest charges calculated on the amount owed in accordance with the provisions of Section 9.2 from the date such amount was originally due. Purchaser and Seller at any time may offset against any and all amounts that may be due and owed to the other Party under this REPA any amounts that are owed by such other Party to Purchaser or Seller, as applicable, pursuant to this REPA including damages and other payments. Undisputed and non-offset portions of amounts invoiced under this REPA shall be paid on or before the due date or shall be subject to the late payment interest charges set forth in Section 9.2.

ARTICLE 10
OPERATIONS AND MAINTENANCE

10.1 Facility Operation.

Seller hereby represents that it is and will remain a Qualified Operator during the Delivery Period or that Seller will engage a Qualified Operator to operate and maintain the Facility during the Delivery Period. Seller shall staff, control, and operate the Facility consistent at all times with Good Utility Practice(s) and the Contract Administration Procedures developed pursuant to Section 10.3. Personnel capable of starting, operating, and stopping the Facility shall be available, either at the Facility or capable of remotely starting, operating and stopping the Facility within ten (10) minutes' notice. In all cases, personnel capable of starting, operating, and stopping the Facility shall be continuously reachable by phone or pager. Seller shall maintain the Communications Equipment in good operating order at all times during the Term.

10.2 Outage and Performance Reporting.

(A) Seller shall comply with all NERC, RFC and the Interconnection Provider generating unit outage and performance reporting requirements, including

GATS reporting requirements, as they may be revised from time to time, and as they apply to the Facility.

(B) When Forced Outages of [redacted] or greater of the Facility Capacity occur that Seller reasonably expects to continue into the next Day, Seller shall (i) notify Purchaser by phone (followed by electronic mail) of the existence, nature, and expected duration of the Forced Outage as soon as practical, but in no event later than thirty (30) minutes after the Forced Outage occurs, and (ii) update the Availability Notice within sixty (60) minutes after the Forced Outage occurs. Seller shall thereafter inform Purchaser on a daily basis by phone (followed by electronic mail) of changes in the expected extent or duration of the Forced Outage unless relieved of this obligation by Purchaser.

(C) When Forced Outages of [redacted] or greater of the Facility Capacity occur that are expected to be of a duration exceeding one hour and be resolved within the same Day of the Forced Outage, Seller shall update the Availability Notice within sixty (60) minutes after the Forced Outage occurs.

(D) Seller shall provide Purchaser with prompt notice by telephone of any malfunction or other failure of the Communications Equipment.

10.3 Contract Administration Committee and Contract Administration Procedures.

(A) Purchaser and Seller shall each appoint one representative and one alternate representative to act in matters relating to the Parties' performance obligations under this REPA and to develop operating arrangements for the generation, delivery and receipt of Renewable Energy hereunder. Such representatives shall constitute the Contract Administration Committee, and shall be as specified on Exhibit C. The Parties shall notify each other in writing of such appointments and any changes thereto. The Contract Administration Committee shall have no authority to modify the terms or conditions of this REPA.

(B) Prior to the Commercial Operation Date, the Contract Administration Committee shall develop mutually agreeable written Contract Administration Procedures which shall include, but not be limited to, method of day-to-day communications; curtailment, outage and performance reporting; metering, telemetering, telecommunications, and data acquisition procedures; key personnel list for applicable Purchaser and Seller operating centers; operations and maintenance scheduling and reporting; Renewable Energy reports; unit operations log; and such other matters as may be mutually agreed upon by the Parties.

10.4 Access to Facility.

Appropriate representatives of Purchaser shall at all reasonable times, including weekends and nights, and with reasonable prior notice, have access to the Facility to read meters, to perform maintenance and service of Purchaser's equipment and to

perform all inspections and operational reviews as may be reasonably appropriate to facilitate the performance of this REPA; provided that Purchaser does not interfere in any material respect with the operation of the Facility, and causes all persons visiting the Facility on its behalf to comply with all of Seller's applicable safety, health and similar rules and requirements.

10.5 Reliability Standards.

Seller shall operate the Facility in a manner that complies in all material respects with all national and regional reliability standards, including standards set by the Interconnection Provider, RFC, NERC and FERC, or any successor agencies setting reliability standards for the operation of generation facilities. To the extent that Seller does not operate the Facility in accordance with such standards that result in monetary penalties being assessed to Purchaser by the Interconnection Provider, RFC, NERC, or FERC, Seller shall reimburse Purchaser for its share of such monetary penalties.

10.6 Beneficial Environmental Interests.

The Parties acknowledge that future or existing legislation or regulation may create value in the ownership, use or allocation of the Beneficial Environmental Interests of the Facility. Purchaser shall own or be entitled to claim all Beneficial Environmental Interests to the extent they may exist during the Term.

10.7 Forecasts.

No later than (a) two (2) months prior to the Commercial Operation Date and (b) two months prior to the beginning of each Contract Year thereafter, Seller will furnish Purchaser with an Availability Notice (Exhibit I) setting forth its good faith estimate of the availability and projected generation of the Facility for such month and the next thirteen (13) months, provided that Seller reserves the right, if rules within PJM are changed, to require the Availability Notice on a daily basis, split out by hours. With respect to the preceding sentence, if Seller later updates its availability or generation estimates for such periods, it shall deliver to Purchaser a revised notice setting forth its then current good faith estimate of availabilities and generation of the Facility for the balance of such month and for the next month. Seller does not guarantee the accuracy of said notices and said notices are only intended to be its good faith estimate of the projected availability and generation of the Facility at the time such notice is given. Seller also shall furnish to Purchaser a revised Availability Notice promptly after the occurrence of any Force Majeure event, Forced Outage, unscheduled outage or other unplanned maintenance, derating, or other event that would reduce or interrupt Renewable Energy or, if applicable, Ancillary Services associated with the Facility Capacity or cause the controlling Availability Notice to be inaccurate or incomplete in any material respect, with a description of the circumstances thereof. Each such Availability Notice shall be effective until delivery of a subsequent Availability Notice. Seller does not guarantee the accuracy of said Availability Notices, and said Availability Notices are only intended to be its good faith estimate of the projected availability of the Facility at the time such notice is given.

10.8 Planned Maintenance Schedule.

No later than (a) two (2) months prior to the Commercial Operation Date and (b) two (2) months prior to each calendar year thereafter during the Term, Seller shall submit to Purchaser a schedule of planned maintenance for the following calendar year for the Facility. Such schedule shall be consistent with the requirements of Good Utility Practice and the Interconnection Agreement, and otherwise in accordance with this REPA. Seller shall revise such schedule throughout the year to reflect any changes to its actual expected planned maintenance activities, including any cancellation, postponement, or addition of planned maintenance activities. No planned maintenance of the Facility substation or any other portion of the Facility that would affect the availability of more than [redacted] Facility Capacity at any one time may be scheduled during the months of [redacted] during the Delivery Period; provided, however, that planned maintenance may be scheduled during such period to the extent (i) required by or necessary to preserve any equipment warranties or (ii) the failure to perform such planned maintenance is contrary to operation in accordance with Good Utility Practice(s). Such schedule shall indicate the planned commencement and completion dates for each planned maintenance during the period covered thereby, as well as the affected portion(s) of the Facility. If Purchaser desires to change the scheduled commencement or duration of planned maintenance, the Purchaser shall notify the Seller of the requested change and the Seller shall use reasonable efforts to accommodate the requested change. At least one (1) week prior to any planned maintenance, Seller shall notify Purchaser via e-mail and telephonically of the expected commencement date of such planned maintenance, the affected portion(s) of the Facility during such planned maintenance and the expected completion date of such planned maintenance.

10.9 REC Certification.

(A) Seller shall be responsible for causing the GATS Certificates delivered under this REPA to meet all requirements for entry into GATS. Seller shall be responsible for registering and maintaining compliance during the duration of this REPA with GATS and will be responsible for timely delivery as allowed by GATS. [redacted]

(B) Seller shall, at its own cost, take all actions necessary to register for and maintain participation in all applicable systems and programs established by the federal or any state Governmental Authority in Virginia and West Virginia to monitor, track, certify or trade RECs. To the extent necessary, Seller shall assign to Purchaser all rights, title and authority for Purchaser to register, own, hold and manage certificates that represent RECs in Purchaser's own name and to Purchaser's account, including any rights associated with any such federal or applicable state renewable energy information or tracking system that may be established with regard to monitoring, tracking, certifying, or trading such RECs. Upon the request of Purchaser from time to time, at no cost to Purchaser, (i) Seller shall deliver or cause to be delivered to Purchaser such

attestations/certifications of RECs as may be required to comply with any such federal or applicable state certification system or program, and (ii) Seller shall provide full cooperation in connection with Purchaser's registration and certification of RECs. Purchaser shall assist Seller with the matters described in this subsection (B) to the extent reasonably requested by Seller during the Term.

10.10 Public Statements/Other Use.

Without the written consent of Purchaser, Seller shall not (i) make any public statement or representation that is inconsistent with Purchaser's entitlement to the Renewable Energy Products (or any portion thereof), (ii) use the Facility's Beneficial Environmental Interests to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable energy portfolio standard or other renewable energy mandate, or (iii) advertise, market, sell, retire, convey or otherwise transfer or seek to transfer the Facility's Beneficial Environmental Interests, which rights are expressly reserved to Purchaser during the Term.

10.11 Real-Time Information.

Seller will use commercially reasonable efforts on and after the Commercial Operation Date to continuously and reliably transmit real-time data and measurements to Purchaser in compliance with Exhibit G. Purchaser and Seller shall each bear the cost of and responsibilities for their respective systems, equipment and communications links required for receipt of such real-time information. Seller shall notify Purchaser by phone or electronic mail of the existence, nature, and expected duration of any Weather Station outage (partial or full) as soon as practical, but in no event later than two (2) hours after the Weather Station outage occurs. As required by PJM, Seller will continuously transmit real-time data associated with the Facility to PJM. In the event that Seller fails to continuously transmit real-time data to Purchaser in compliance with Exhibit G, and such real-time data transmission has not been restored within two (2) Business Days after Purchaser notifies Seller of the failure thereof, [redacted]

10.12 Web-Based Operational Reporting.

Purchaser may at its option make available to Seller on the Internet a web-based reporting system which will provide the Parties with the capability to generate and submit standardized reports for purposes of satisfying the requirements of the Parties contained in Sections 10.2, 10.7 and 10.8. Purchaser will develop user requirements for such reporting system in consultation with Seller.

ARTICLE 11
SECURITY FOR PERFORMANCE

11.1 Seller Security Fund.

(A) Seller shall establish the Security Fund at the amount of [redacted] no later than fifteen (15) Days after the date Purchaser either satisfies or waives the condition precedent forth in Article 6 of this REPA, and Seller shall thereafter maintain the Security Fund at such level throughout the Term.

(B) If a breach of Seller's obligations under this REPA has occurred and is continuing, then in addition to any other remedy available to it, Purchaser may, before or after termination of this REPA and so long as the Security Fund is required to be outstanding after termination of this REPA pursuant to Section 11.1(F), draw from the Security Fund. Purchaser may, in its sole discretion, draw all or any part of such amounts due to it from any form of Security Fund, and from all such forms, and in any sequence Purchaser may select. Any failure to draw upon the Security Fund or other security for any damages or other amounts due to Purchaser shall not prejudice Purchaser's rights to recover such damages or amounts in any other manner.

(C) The Security Fund shall be maintained at Seller's expense, shall be issued by or deposited in an Issuer (as applicable), and shall be in the form of one or more of the following instruments. Seller may replace the form of the Security Fund at any time and from time to time upon reasonable prior notice to Purchaser, but the Security Fund must at all times be comprised of one or any combination of the following:

(1) An irrevocable standby letter of credit in substantially the form of Exhibit J from an Issuer that is an Acceptable Issuing Bank. Such security must be issued for a minimum term of three hundred and sixty (360) Days. Seller shall cause the renewal or extension of the security for additional consecutive terms of three hundred and sixty (360) Days or more (or, if shorter, the remainder of the period described in Section 11.1(F)) no later than thirty (30) Days prior to each expiration date of the security. If the security is not renewed or extended as required herein (such condition, the "Failure to Extend Condition"), Purchaser shall have the right to draw immediately upon the letter of credit and be entitled to hold the amounts so drawn as security, provided Purchaser satisfies the conditions of Section 11.1(C)(2)(i). If Purchaser does not meet the conditions of Section 11.1(C)(2)(i), Purchaser will place the amounts so drawn in an interest bearing account or escrow in accordance with Section 11.1(C)(2)(ii), until and unless Seller provides a substitute form of such security meeting the requirements of this Section 11.1. Such amounts shall constitute part of the Security Fund pursuant to Section 11.1(C)(2) for all purposes of this REPA (including for the return of such Cash to Seller according to Section 11.1(F)).

(2) United States currency ("Cash") deposited with (i) Purchaser, provided that Purchaser satisfies the following conditions: (a) it is not a defaulting Party and (b) Purchaser is a Creditworthy Entity. In such event, Purchaser will pay interest to

Seller on Cash held at the Federal Funds Effective Rate and may draw on the Cash only in the circumstances, and in the amounts, that a letter of credit in the form of Exhibit J could be drawn (except that the Failure to Extend Condition or Failure to Replace Condition shall not apply as a valid reason for disbursement); or (ii) if, and only if, Purchaser does not meet the aforementioned conditions of Section 11.1(C)(2)(i), then the Cash shall be held with an Issuer that is an Acceptable Issuing Bank, either: (a) in an account under which Purchaser is designated as beneficiary with sole authority to draft from the account or otherwise access the security only in the circumstances, and in the amounts, that a letter of credit in the form of Exhibit J could be drawn (except that the Failure to Extend Condition or Failure to Replace Condition shall not apply as a valid reason for disbursement); or (b) held by Issuer as escrow agent with instructions to pay claims made by Purchaser pursuant to this REPA, such instructions to allow drawing by Purchaser only in the circumstances, and in the amounts, that a letter of credit in the form of Exhibit J could be drawn (except that the Failure to Extend Condition or Failure to Replace Condition shall not apply as a valid reason for disbursement). Security held pursuant to Section 11.1(C)(2)(ii) shall be subject to the following: (x) include a requirement for prompt notice to Purchaser from Seller in the event that the sums held as security in the account or escrow do not at any time meet the required level for the Security Fund as set forth in this Section 11.1 and (y) funds held in the account or escrow may be deposited in a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Seller. Seller grants to Purchaser a present and continuing first priority security interest in all Cash which has been transferred to Purchaser or held by Issuer. At such times as the balance of Cash held by Purchaser or by Issuer exceeds the amount of Seller's obligation to provide security hereunder, Purchaser shall remit to Seller on demand any excess in the account above Seller's obligations.

(3) A guaranty in substantially the form of Exhibit K from an Issuer that is a Creditworthy Entity. **[Note: Acceptability of an Issuer may be affected by the level of outstanding guarantees currently held by AEP and its affiliates or subsidiaries from the same Issuer.]**

(D) If the Issuer of any Security Fund instrument ceases to be an Acceptable Issuing Bank (in the case of a letter of credit Issuer or holder of Cash) or a Creditworthy Entity (in the case of an Issuer of a payment guaranty) or any Security Fund instrument ceases to be in full force and effect, then Seller shall be required to replace the affected Security Fund instrument with another Security Fund instrument meeting the criteria set forth in Section 11.1(C) no later than ten (10) Days after receiving notice from Purchaser that such replacement of the Security Fund instrument is required pursuant to this Section 11.1(D). If the Security Fund instrument is a letter of credit and is not replaced as required herein (such condition, the "Failure to Replace Condition"), Purchaser shall have the right to draw immediately upon the letter of credit and be entitled to hold the amounts so drawn as security, provided Purchaser satisfies the conditions of Section 11.1(C)(2)(i). If Purchaser does not meet the conditions of Section 11.1(C)(2)(i), Purchaser will place the amounts so drawn, in an interest bearing account or escrow in

accordance with Section 11.1(C)(2)(ii), until and unless Seller provides a substitute form of such security meeting the requirements of this Section 11.1. Such amounts shall constitute part of the security pursuant to Section 11.1(C)(2) for all purposes of this REPA (including for the return of such Cash to Seller according to Section 11.1(F)).

(E) If any Security Fund instrument is replaced in accordance with Section 11.1(C) or 11.1(D), (i) if the Security Fund instrument replaced is Cash, Purchaser shall immediately return the Cash (including any interest earned thereon) to Seller, or (ii) if the Security Fund instrument being replaced is not Cash, the Issuer shall be deemed released from all obligations under such replaced Security Fund instrument, and Purchaser shall execute any documents reasonably requested by Seller or the Issuer thereof to confirm such release.

(F) On the later of (i) one hundred eighty (180) days after the termination or expiration of this REPA or (ii) the resolution of all then-pending disputes under this REPA, (a) if Cash is part of the Security Fund, Purchaser shall immediately return to Seller such Cash (together with any interest earned thereon), and (b) if a guaranty or letter of credit is part of the Security Fund, the Issuer(s) that provided or issued such Security Fund instrument shall be deemed released from all obligations under such Security Fund instrument, and Purchaser shall execute any documents reasonably requested by Seller or the Issuer thereof to confirm such release.

ARTICLE 12
DEFAULT AND REMEDIES

12.1 Events of Default of Seller.

(A) Any of the following shall constitute an "Event of Default" of Seller upon its occurrence and no cure period shall be applicable:

(1) Seller's dissolution or liquidation;

(2) Seller's assignment of this REPA or any of its rights hereunder for the benefit of creditors (except for an assignment to the Facility Financing Representative as security under the Financing Documents as permitted by this REPA);

(3) Seller's voluntary filing of a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or Seller voluntarily taking advantage of any such law or act by answer or otherwise;

(4) The filing of a case in bankruptcy or any proceeding under any other insolvency law against Seller or the Issuer providing a guaranty pursuant to Section 11.1(C)(3) hereof as debtor, and such case or proceeding has not been dismissed within sixty (60) Days; or

(5) The sale by Seller to a third party, or diversion by Seller for any use, of Renewable Energy Products committed to Purchaser by Seller, except to the extent permitted by this REPA.

(B) Seller's failure to comply with its obligations under Section 11.1 shall constitute an Event of Default of Seller if not cured within [redacted] after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1;

(C) Seller's failure to make any payment required under this REPA (net of any other rights of offset that Seller may have pursuant to Section 9.3), shall constitute an Event of Default of Seller if not cured within [redacted] after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1:

(D) Any of the following shall constitute an Event of Default of Seller if not cured within [redacted] in the case of an Event of Default that can be cured solely by the payment of money) after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1:

(1) Abandonment;

(2) Seller's failure to maintain in effect any material agreements required to deliver the Renewable Energy committed to Purchaser hereunder to the Point of Delivery pursuant to Section 5.3, including the Interconnection Agreement;

(3) Seller's failure to comply with any material obligation under this REPA, other than as expressly specified in this Article 12, which would result in a material adverse impact on Purchaser;

(4) Seller's assignment of this REPA, or Seller's sale or transfer of its interest, or any part thereof, in the Facility, except as permitted in accordance with Article 19; or

(5) Any representation or warranty made by Seller in this REPA shall prove to have been false in any material respect when made, except to the extent expressly limited to the time when made, if such cessation would reasonably be expected to result in a material adverse impact on Purchaser.

(E) Seller's failure to meet the Commercial Operation Milestone shall constitute an Event of Default of Seller if not cured within [redacted] after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1; provided, however, that Seller shall have an [redacted] to achieve the Commercial Operation Date, provided that, on or before the expiration of the [redacted], (i) Seller pays to Purchaser all Delay Liquidated Damages payable with respect to the [redacted] and (ii) an Independent Engineer, retained by Purchaser and paid for by Seller, provides a written

opinion to Purchaser stating that Seller's plan for achieving the Commercial Operation Date is reasonably achievable within such [redacted] cure period. This provision would allow for a total cure period of [redacted] if all conditions of this paragraph are met. [redacted]

(F) If the Availability of the Facility is less than [redacted] for any Contract Year, it shall constitute an Event of Default of Seller if Seller does not, prior to [redacted] after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1 (the "Shortfall Notice Date"), initiate commercially reasonable efforts to attempt to increase Availability of the Facility such that, for the [redacted] period beginning on the Shortfall Notice Date, the Availability of the Facility [redacted]; provided, however, that, even if Seller does initiate such commercially reasonable efforts prior to sixty (60) Days after the Shortfall Notice Date, then if, at the end of the twelve (12) month period beginning on the Shortfall Notice Date, the Availability of the Facility for such period does not [redacted] for such period, it shall constitute an Event of Default of Seller. Purchaser may require the retention of an Independent Engineer by Seller, at Seller's cost, to confirm that Seller's efforts to increase Availability of the Facility such that, for the [redacted] beginning on the Shortfall Notice Date, the Availability of the Facility [redacted], is reasonably achievable.

12.2 Facility Financiers' Right to Cure Default of Seller.

Seller shall provide Purchaser with a notice identifying the Facility Financing Representative and the Parties shall use commercially reasonable efforts to enter into a Consent and Agreement in substantially the form of Exhibit L attached hereto with such Facility Financing Representative. Following execution of a Consent and Agreement, Purchaser shall provide notice of any default of Seller under Section 12.1 to the Facility Financing Representative, and Purchaser will accept a cure to such Default of Seller performed by the Facility Financing Representative, in accordance with the terms of the applicable Consent and Agreement.

12.3 Events of Default of Purchaser.

(A) Any of the following shall constitute an "Event of Default" of Purchaser upon its occurrence and no cure period shall be applicable:

(1) Purchaser's dissolution or liquidation;

(2) Purchaser's assignment of any of its rights hereunder for the benefit of creditors;

(3) Purchaser's voluntary filing of a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the

United States or under any insolvency act of any State, or Purchaser voluntarily taking advantage of any such law or act by answer or otherwise;

(4) The filing of a case in bankruptcy or any proceeding under any other insolvency law against Purchaser and such case or proceeding is not dismissed within sixty (60) Days; or

(5) Purchaser's assignment of this REPA, except as permitted in accordance with Article 19.

(B) Purchaser's failure to make any payment due hereunder (net of outstanding damages and any other rights of offset that Purchaser may have pursuant to this REPA) shall constitute an Event of Default of Purchaser if not cured within ten (10) Days after the date of written notice from Seller to Purchaser as provided for in Section 13.1.

(C) Purchaser's failure to comply with any material obligation under this REPA, other than as otherwise expressly specified in this Article 12, which would result in a material adverse impact on Seller, shall constitute an Event of Default of Purchaser if not cured within thirty (30) Days after the date of written notice from Seller to Purchaser as provided for in Section 13.1.

(D) Any representation or warranty made by Purchaser in this REPA shall prove to have been false in any material respect when made, except to the extent expressly limited to the time when made, or ceases to remain true during the Term if such cessation would reasonably be expected to result in a material adverse impact on Seller, and shall constitute an Event of Default of Purchaser if not cured within thirty (30) Days after the date of written notice from Seller to Purchaser as provided for in Section 13.1.

12.4 Damages Prior to Termination.

For all breaches or Events of Default (other than those in respect of any delay of the Commercial Operation Date and any [redacted], for which Sections 4.10 and 7.2 of REPA provide a remedy that is stated to be an exclusive remedy of Purchaser), the non-breaching or non-defaulting Party shall be entitled to receive from the breaching or defaulting Party its actual, direct damages resulting from such breach or Event of Default.

12.5 Termination.

Upon the occurrence of an Event of Default which has not been cured within the applicable cure period and is continuing, the non-defaulting Party shall have the right to declare, by giving notice to the defaulting Party (and, if the defaulting Party is Seller, to the Facility Financing Representative), a date no less than [redacted] and no more than [redacted] after the date of such notice upon which this REPA shall terminate. Neither Party shall have the right to terminate this REPA except as provided for upon the occurrence of an Event of Default as described above or as otherwise may be explicitly provided for in this REPA. Except in the event of termination by Purchaser in the case of

the Event of Default of Seller in Section 12.1(E) or (F), the non-defaulting Party shall be entitled to receive from the defaulting Party, all of the actual damages incurred by the non-defaulting Party as a result of such termination, including the [redacted] incurred by the non-defaulting Party as a result of the termination of this REPA. In the event of termination by Purchaser in the case of the Event of Default of Seller in Section 12.1(E) or (F), neither Party shall have any liability arising out of such termination, without prejudice to Seller's obligation to pay Delay Liquidated Damages or [redacted], respectively, in respect of the period prior to such termination.

12.6 Specific Performance.

In addition to the other remedies specified in this Article 12, in the event that any breach of this REPA by a Party is not cured within the applicable cure period set forth herein, the other Party shall have the right to specific performance.

12.7 [redacted]

[redacted]

12.8 Waiver and Exclusion of Other Damages.

The Parties confirm that the express remedies and measures of damages provided in this REPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to direct, actual damages only. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES BY STATUTE, IN TORT OR CONTRACT (EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN); PROVIDED, THAT IF EITHER PARTY IS HELD LIABLE TO A THIRD PARTY FOR SUCH DAMAGES AND THE PARTY HELD LIABLE FOR SUCH DAMAGES IS ENTITLED TO INDEMNIFICATION THEREFORE FROM THE OTHER PARTY HERETO, THE INDEMNIFYING PARTY SHALL BE LIABLE FOR, AND OBLIGATED TO REIMBURSE THE INDEMNIFIED PARTY FOR, SUCH DAMAGES. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

12.9 Payment of Damages.

Without limiting any other provisions of this Article 12 and at any time before or after termination of this REPA, the non-defaulting Party may send the other Party an invoice for such damages (including, if applicable, Delay Liquidated Damages and [redacted] or other amounts as are due to the non-defaulting Party at such time from the defaulting Party under this REPA and such invoice shall be payable in the manner, and in accordance with the applicable provisions, set forth in Article 9, including the provision for late payment charges. In the case of damages owed by Seller to Purchaser, Purchaser may, subject to the provisions of Section 11.1, withdraw funds from the Security Fund, as needed to provide payment for such invoice if the invoice is not paid by Seller on or before the tenth (10th) Business Day following the invoice due date.

12.10 Duty to Mitigate.

Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of the REPA.

ARTICLE 13
CONTRACT ADMINISTRATION AND NOTICES

13.1 Notices in Writing.

Notices required by this REPA shall be addressed to the other Party, including the other Party's representative on the Contract Administration Committee, at the addresses noted in Exhibit C as either Party updates them from time to time by written notice to the other Party. Any notice, request, consent, or other communication required or authorized under this REPA to be given by one Party to the other Party shall be in writing. It shall either be hand delivered or delivered by electronic means or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier to the representative of said other Party. If mailed, the notice, request, consent or other communication shall be simultaneously sent by facsimile or other electronic means. Any such notice, request, consent, or other communication shall be deemed to have been received by the Close of the Business Day on which it was hand delivered or transmitted electronically (unless hand delivered or transmitted after such close in which case it shall be deemed received at the close of the next Business Day). Real-time or routine communications concerning Facility operations, including communications specified in Section 7.4 and Section 10.2, shall be exempt from this Section.

13.2 Representative for Notices.

Each Party shall maintain a designated representative to receive notices. Such representative may, at the option of each Party, be the same person as that Party's representative or alternate representative on the Contract Administration Committee, or a different person. Either Party may, by written notice to the other Party, change the representative or the address to which such notices and communications are to be sent.

13.3 Authority of Representatives.

The Parties' representatives designated above shall have authority to act for its respective principals in all technical matters relating to performance of this REPA and to attempt to resolve disputes or potential disputes. However, they, in their capacity as representatives, shall not have the authority to amend or modify any provision of this REPA.

13.4 Operating Records.

Seller and Purchaser shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this REPA, including such records as may be required by state or federal regulatory authorities and the Interconnection Provider in the prescribed format. Seller and Purchaser shall cause such Operating Records to be kept for a period equal to at least five (5) years following the creation thereof, unless either Seller or Purchaser is required by any Governmental Authority to keep such Operating Records for a longer period of time.

13.5 Operating Log.

Seller shall maintain an accurate and up-to-date operating log, in electronic format, at the Facility with records of production for each Clock Hour; changes in operating status; Scheduled Outages/Deratings and Forced Outages for the purposes of proper administration of this REPA, including such records as may be required by state or federal regulatory authorities and the Interconnection Provider in the prescribed format. Seller and Purchaser shall cause such Operating Records to be kept for a period equal to at least five (5) years following the creation thereof, unless either Seller or Purchaser is required by any Governmental Authority to keep such Operating Records for a longer period of time.

13.6 Billing and Payment Records.

To facilitate payment and verification, Seller and Purchaser shall, for a period of at least five (5) years following the creation thereof, keep all books and records necessary for billing and payments in accordance with the provisions of Article 9 and grant the other Party reasonable access to those records. All records of Seller pertaining to the operation of a Facility shall be maintained on the premises of the Facility or at the notice address listed in Exhibit C.

13.7 Examination of Records.

Seller and Purchaser may examine the financial and Operating Records and data kept by the other Party relating to transactions under and administration of this REPA, at any time during the period the records are required to be maintained, upon request and during normal business hours, for a period of at least five (5) years following the creation of such financial and Operating Records and data.

13.8 Exhibits.

Either Party may change the information for their notice addresses in Exhibit C at any time upon written notice to but without the approval of the other Party. Exhibit C may only be changed in accordance with Section 20.4. Exhibit D may be changed in accordance with Section 16.2. All other Exhibits may only be modified by the mutual agreement of Seller and Purchaser.

13.9 Dispute Resolution.

(A) In the event of any dispute, controversy or claim arising out of or relating to this REPA (a "Dispute"), within ten (10) Days following the delivered date of a written request by either Party (a "Dispute Notice"), (i) each Party shall appoint a representative (individually, a "Party Representative", together, the "Parties' Representatives"), and (ii) the Parties' Representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the Parties' Representatives have not resolved the Dispute within thirty (30) Days after commencement of negotiations, within ten (10) Days following any request by either Party at any time thereafter, each Party Representative (I) shall independently prepare a written summary of the Dispute describing the issues and claims, (II) shall exchange its summary with the summary of the Dispute prepared by the other Party Representative, and (III) shall submit a copy of both summaries to a senior officer of the Party Representative's Party with authority to irrevocably bind the Party to a resolution of the Dispute. Within ten (10) Business Days after receipt of the Dispute summaries, the senior officers for both Parties shall negotiate in good faith to resolve the Dispute. If the Parties have not resolved the Dispute within fourteen (14) Days following receipt of the Dispute summaries by the senior officers, either Party may seek available legal and equitable remedies.

(B) Notwithstanding any provision in this REPA to the contrary, if no Dispute Notice has been issued within six (6) months following the occurrence of all events and the existence of all circumstances giving rise to the Dispute (regardless of the knowledge or potential knowledge of either Party of such events and circumstances), the Dispute and all claims related thereto shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon; provided, however, that the limitation set forth in this subsection (B) shall not apply to any Dispute Notices regarding claims for indemnification under this REPA for third party claims.

(C) Seller and Purchaser each hereby knowingly, voluntarily and intentionally waive any rights they may have to a trial by jury in respect of any litigation based hereon, or arising out of, under, or in connection with, this REPA or any course of conduct, course of dealing, statements (whether oral or written) or actions of Seller and Purchaser related hereto and expressly agree to have any disputes arising under or in connection with this REPA be adjudicated by a judge of the court having jurisdiction without a jury.

ARTICLE 14
FORCE MAJEURE

14.1 Definition of Force Majeure.

(A) The term "Force Majeure", as used in this REPA, means causes or events beyond the reasonable control of the Party claiming Force Majeure and which (i) is not occurring or reasonably foreseeable on the date hereof, (ii) could not be avoided, prevented or removed by such Party's use of commercially reasonable efforts and (ii) are not caused by or result from the negligence or breach or failure of such Party to perform its obligations hereunder and the affected Party has taken all reasonable precautions, care and alternative measures to avoid or mitigate the effects thereof in accordance with Applicable Law and Good Utility Practices. So long as the requirements of the preceding sentence are met, causes and events of Force Majeure include acts of God, sudden actions of the elements such as floods, earthquakes, hurricanes, or tornadoes; high winds of sufficient strength or duration to materially damage the Facility or significantly impair its construction or operation for a period of time longer than normally encountered under comparable circumstances; long-term material changes in solar irradiance across the Facility; lightning; fire; ice storms; sabotage; pandemic; vandalism beyond that which could reasonably be prevented by Seller; terrorism; war; riots; fire; explosion; blockades; insurrection; strike; slow down or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group); and actions or inactions by any Governmental Authority taken after the date hereof (including the adoption or change in any rule or regulation or environmental constraints lawfully imposed by such Governmental Authority) but only if such requirements, actions, or failures to act prevent or delay performance.

(B) The term Force Majeure does not include (i) any acts or omissions of any third party, in its capacity as vendor, materialman, customer, contractor or supplier of Seller, unless such acts or omissions are themselves excused by reason of Force Majeure; (ii) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: catastrophic equipment failure; acts of God; sudden actions of the elements, including floods, hurricanes, or tornadoes; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Authority; (iii) loss of Purchaser's markets or Purchaser's inability to use or resell the Renewable Energy Products; (iv) Seller's ability to sell the Renewable Energy Products at a price greater than the applicable Contract Rate; (v) changes in market conditions that affect the cost of Purchaser's or Seller's supplies, or that affect demand or price for any of Purchaser's or Seller's products or (vi) lack of funds or inability to make timely payments of money.

14.2 Applicability of Force Majeure.

(A) Other than as set forth in Section 14.3, neither Party shall be responsible or liable for any delay or failure in its performance under this REPA (other than the obligation to make payment of amounts due and payable under this REPA), nor

shall any delay, failure, or other occurrence or event become an Event of Default, to the extent such delay, failure, occurrence or event is substantially caused by conditions or events of Force Majeure, provided that:

(1) the non-performing Party gives the other Party prompt written notice describing the particulars of the occurrence of the Force Majeure;

(2) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

(3) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform and provides weekly progress reports to the other Party describing actions taken to end the Force Majeure; and

(4) when the non-performing Party is able to resume performance of its obligations under this REPA, that Party shall give the other Party prompt written notice to that effect.

(B) Except as otherwise expressly provided for in this REPA, the existence of a condition or event of Force Majeure shall not relieve the Parties of their obligations under this REPA (including payment obligations) to the extent that performance of such obligations is not precluded by the condition or event of Force Majeure.

14.3 Limitations on Effect of Force Majeure.

In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this REPA beyond its stated Term. In the event that any delay or failure of performance caused by conditions or events of Force Majeure prevents the performance of a Party's obligations hereunder in any material respect and continues for an uninterrupted period of three hundred sixty-five (365) Days from its occurrence or inception, as noticed pursuant to Section 14.2(A), the Party not claiming Force Majeure may, at any time following the end of such three hundred sixty-five (365) Day period, terminate this REPA upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure may, but shall not be obligated to, extend such three hundred sixty-five (365) Day period, for such additional time as it, at its sole discretion, deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure.

ARTICLE 15
REPRESENTATIONS, WARRANTIES AND COVENANTS

15.1 Seller's Representations, Warranties and Covenants.

Seller hereby represents and warrants as follows:

(A) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia. Seller is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller; and Seller has all requisite power and authority to conduct its business, to own its assets, and to execute, deliver, and perform its obligations under this REPA.

(B) The execution, delivery, and performance of its obligations under this REPA by Seller have been duly authorized by all necessary limited liability company action, and do not and will not:

(1) require any consent or approval by any governing body of Seller, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to Purchaser upon its request);

(2) (violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to Seller or violate any provision in any formation documents of Seller, the violation of which could have a material adverse effect on the ability of Seller to perform its obligations under this REPA;

(3) result in a breach or constitute a default under Seller's formation documents or bylaws, or under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this REPA; or

(4) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this REPA) upon or with respect to any of the assets of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this REPA.

(C) This REPA is a valid and binding obligation of Seller.

(D) The execution and performance of this REPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, statute, or regulation that is applicable to Seller or the Facility.

(E) To the knowledge of Seller, and except for those permits, consents, approvals, agreements, licenses and authorizations which Seller anticipates will be obtained by Seller in the ordinary course of business, all permits, consents, approvals, agreements, licenses, authorizations, or other action required by any Governmental

Authority (including permits, consents, approvals, agreements, licenses, authorizations, or other action relating to the protection of wildlife (including, but not limited to, federally and state protected wildlife), to authorize Seller's execution, delivery and performance of this REPA have been duly obtained and are in full force and effect.

(F) Seller is (1) an "eligible contract participant" as defined in 12 U.S.C. 5301, or (2) a producer, processor, or commercial user of, or a merchant handling, the electricity that is the subject of this REPA, or the products or byproducts thereof, and Seller is entering into this REPA solely for purposes related to its business as such.

(G) Seller shall comply with all applicable local, state, and federal laws, regulations, and ordinances, including applicable equal opportunity and affirmative action requirements and all applicable federal, state, and local environmental laws and regulations presently in effect or which may be enacted during the Term.

(H) Seller shall disclose to Purchaser, the extent of, and as soon as it is known to Seller, any material violation of any environmental laws or regulations arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Site, alleged to exist by any Governmental Authority having jurisdiction over the Site, or the existence of any past or present enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

15.2 Purchaser's Representations, Warranties and Covenants.

Purchaser hereby represents and warrants as follows:

(A) Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia and is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of Purchaser; and Purchaser has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this REPA.

(B) The execution, delivery, and performance of its obligations under this REPA by Purchaser have been duly authorized by all necessary corporate action, and do not and will not:

(1) require any consent or approval of Purchaser's Board of Directors, or shareholders, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to Seller upon its request);

(2) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to Purchaser or violate any provision in any corporate documents of Purchaser, the violation of which could have a material adverse effect on the ability of Purchaser to perform its obligations under this REPA;

(3) result in a breach or constitute a default under Purchaser's corporate charter or bylaws, or under any agreement relating to the management or affairs of Purchaser, or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Purchaser is a party or by which Purchaser or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations under this REPA; or

(4) result in, or require the creation or imposition of, any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this REPA) upon or with respect to any of the assets or properties of Purchaser now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations under this REPA.

(C) This REPA is a valid and binding obligation of Purchaser.

(D) The execution and performance of this REPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Purchaser is a party or any judgment, order, statute, or regulation that is applicable to Purchaser.

(E) To the best knowledge of Purchaser, all approvals, authorizations, consents, or other action required by any Governmental Authority to authorize Purchaser's execution, delivery and performance of this REPA, have been duly obtained and are in full force and effect.

(F) Purchaser is (1) an "eligible contract participant" as defined in 12 U.S.C. 5301, or (2) a producer, processor, or commercial user of, or a merchant handling, the electricity that is the subject of this REPA, or the products or byproducts thereof, and Purchaser is entering into this REPA solely for purposes related to its business as such.

ARTICLE 16
INSURANCE

16.1 Evidence of Insurance.

Seller shall, prior to the commencement of construction and promptly upon renewal of insurance each calendar year or partial calendar year during the Term, provide Purchaser, at the insurance address listed in Exhibit C, with a copy of insurance certificates acceptable to Purchaser evidencing that insurance coverages for the Facility are in compliance with the specifications for insurance coverage set forth in this Article 16 and Exhibit D to this REPA. Such certificates shall (a) identify Purchaser and its Affiliates as additional insureds (except workers' compensation); (b) provide for a waiver of any rights of subrogation against Purchaser, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (c) indicate that the Commercial General Liability policy has been endorsed as described in Exhibit D. Seller shall use commercially

reasonable efforts to ensure that the insurance policies required by this REPA are procured and stipulate that Purchaser shall receive thirty (30) Days prior written notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such notice shall be ten (10) Days for non-payment of premiums); provided, however, that, if Seller is unable to require its insurers to provide such notices to Purchaser, Seller shall provide such notice to Purchaser, at the insurance address listed in Exhibit C. In the event Seller receives notice from one of its insurers, it shall provide notice to Buyer as soon as practicable but in no event later than five (5) Business Days following Seller's receipt. All policies shall be written with insurers that Purchaser, in its reasonable discretion, deems acceptable (such acceptance will not be unreasonably withheld, conditioned or delayed). All policies shall contain an endorsement that Seller's policy shall be primary and non-contributory with respect to any insurance maintained by Purchaser, in all instances regardless of like coverages, if any, carried by Purchaser. Seller's liability under this REPA is not limited to the amount of insurance coverage required herein.

16.2 Term and Modification of Insurance.

All insurance required under this REPA shall be on an occurrence-basis and shall be in effect during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the date of this REPA and such insurance shall be maintained by Seller, with a retroactive date not later than the retroactive date required above, for a minimum of five (5) years after the Term.

ARTICLE 17

[redacted]

17.1 [redacted]

[redacted]

[redacted]

17.2 [redacted]

[redacted]

17.3 [redacted]

[redacted]

17.4 [redacted]

[redacted]

ARTICLE 18
LEGAL AND REGULATORY COMPLIANCE

18.1 Compliance with Laws.

Each Party shall at all times comply with all laws, ordinances, rules and regulations applicable to it except for any non-compliance which, individually or in the aggregate, could not reasonably be expected to have a material effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder. As applicable, each

Party shall give all required notices, shall procure and maintain all permits, licenses, and inspections required by any Governmental Authority and necessary for performance of this REPA, and shall pay its respective charges and fees in connection therewith.

18.2 Cooperation.

Each Party shall cooperate with the other Party in providing such information as may be reasonably requested, to the extent permitted by Applicable Law and subject to such confidentiality and use limitations as the providing Party may reasonably require, to the extent that the requesting Party requires the same in order to fulfill any regulatory reporting requirements, or to assist the requesting Party in litigation, including administrative proceedings before utility regulatory commissions.

ARTICLE 19
ASSIGNMENT, SUBCONTRACTING, AND FINANCING

19.1 No Assignment Without Consent.

Except as permitted in this Article 19, neither Party shall assign this REPA or any portion thereof, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided (i) at least thirty (30) Days prior notice of any such assignment shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party, and no assignment, whether or not consented to, shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, unless the other Party agrees in writing in advance to waive the assignor's continuing obligations pursuant to this REPA; (iii) no such assignment shall impair any security given by Seller hereunder; and (iv) before the REPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable regulatory bodies. For the avoidance of doubt, a merger of either Party with another Person shall not qualify as an assignment and shall not be subject to the restrictions set forth in this Section 19.1.

(A) Seller's consent shall not be required for Purchaser to assign this REPA to an Affiliate of Purchaser, provided that Purchaser provides assurances and executes documents reasonably required by Seller and the Facility Financiers regarding Purchaser's continued liability for all of Purchaser's obligations under this REPA in the event of any nonperformance on the part of such assignee and that such assignee is a Creditworthy Entity. In the event that the assignee has or obtains an investment grade senior unsecured debt rating equivalent to or better than the senior unsecured debt rating of Purchaser (but in no event worse than the equivalent of BBB), then Seller agrees to relieve Purchaser from its obligations under this REPA if Purchaser requests to be so relieved in a written notice provided to Seller.

(B) Seller shall have the right, without Purchaser's prior written consent, to assign this REPA (i) subject to the provisions of Section 19.2, to a purchaser of all or substantially all of the assets of Seller; (ii) to an Affiliate of Seller; (iii) subject to the provisions of Section 19.2, in connection with a merger of Seller with another Person or

any other transaction resulting in a direct or indirect Change of Control of Seller, or (iv) for collateral purposes to the Facility Financing Representative or any Facility Financier provided that the Parties and the Facility Financing Representative have executed the applicable Consent and Agreement; and in any event provided that such purchaser, Affiliate or the Person surviving such merger, as applicable, (x) meets the requirements of this Section 19.1, (y) complies with the requirements of Section 11.1, and (z) is a Qualified Operator or engages a Qualified Operator to operate and maintain the Facility.

19.2 Right of First Offer.

(A) After the Commercial Operation Date, provided that no Event of Default by Purchaser is continuing, Seller shall not sell or transfer all or any portion of the Facility or permit a Change of Control of Seller, at any time after the Commercial Operation Date, unless prior to such sale or transfer or Change of Control, Seller provides written notice thereof to Purchaser. Such notice shall contain a description of the price and other material terms upon which Seller (or any direct or indirect parent of Seller) desires to sell or transfer such interest in the Facility (or direct or indirect equity interests in Seller). If Purchaser desires to enter into negotiations with Seller regarding the sale or transfer of the interest(s) that are the subject of the notice, Purchaser shall notify Seller of such decision within fifteen (15) days of receipt of Seller's notice (a "ROFO Notice"), which ROFO Notice shall set forth the price and other material terms upon which Purchaser desires to purchase the Facility (or direct or indirect equity interests of Seller). Upon Seller's receipt of a ROFO Notice, Purchaser and Seller shall negotiate in good faith, on an exclusive basis for no more than sixty (60) days (unless a longer period is otherwise mutually agreed to) (the "ROFO Period"), the terms of the sale or transfer of the Facility to Purchaser or, at Purchaser's option, an Affiliate of Purchaser. Seller will provide in a timely manner, information regarding such reasonable information as Purchaser may request regarding the Facility in order for Purchaser to perform due diligence and to negotiate in good faith for the purchase of the Facility. During the ROFO Period, Seller shall not, and shall cause its Affiliates, directors, officers, personnel and other representatives not to, engage in any discussions or negotiations with any third party regarding any sale or transfer of the Facility or Change of Control of Seller or provide any information to any third party in furtherance of any such transaction.

(B) In the event that Purchaser does not deliver a ROFO Notice or Purchaser and Seller are unable to agree upon terms pursuant to which they consummate a sale of the Facility to Purchaser, Seller must comply with Section 19.1 in any assignment of Seller's rights, interests or obligations herein to a purchaser of the Facility or in respect of a Change of Control. If Purchaser delivers a ROFO Notice, Seller may not sell the Facility (or direct or indirect equity interests of Seller) to any other Person for a purchase price less than one hundred and one percent (101%) of the purchase price offered by Purchaser in its ROFO Notice or on other terms and conditions materially more favorable, in the aggregate, to such Person than the terms and conditions offered by Purchaser in its ROFO Notice.

(C) If Purchaser does not purchase the Facility (either because Purchaser does not deliver a ROFO Notice or because Purchaser and Seller are unable

to agree upon terms pursuant to which they consummate a sale of the Facility to Purchaser), and Seller subsequently does not consummate the sale or transfer of the Facility or the Change of Control within one hundred eighty (180) Days of the date that is the later of (i) Purchaser's declining to enter into negotiations with Seller after Seller's notice pursuant to Section 19.2(A), or (ii) the end of the exclusive negotiation period between Seller and Purchaser pursuant to Section 19.2(A), Seller (or any direct or indirect parent of Seller) shall not sell or transfer all or any portion of the Facility (or all or any portion of its direct or indirect equity interests in Seller), unless prior to such sale or transfer it complies with the provisions of Section 19.2(A).

(D) The provisions of this Section 19.2 shall not apply prior to the Commercial Operation Date and shall terminate upon termination of this REPA by Seller or upon the assignment of this REPA by Purchaser to any Person other than an Affiliate of Purchaser.

19.3 Purchase Option.

(A) Option and Exercise. Purchaser shall have the option (the "Purchase Option") to terminate this REPA and Purchase from Seller the Facility and related Project Assets [redacted] Purchaser may exercise the Purchase Option upon the expiration of the Delivery Period. In the event Purchaser desires to exercise the Purchase Option, Purchaser shall deliver to Seller a notice indicating Purchaser's intent to exercise the Purchase Option (an "Option Notice"; the date of such Option Notice, the "Option Exercise Date") on or before the date which is three (3) months prior to the expiration of the Delivery Period. If Purchaser timely delivers an Option Notice, Seller shall within thirty (30) days deliver to Purchaser in writing its good faith determination of the [redacted]

(B) Due Diligence. Promptly following the delivery of an Option Notice, and for a period of ninety (90) Days thereafter (such period, the "Due Diligence Period"), Seller shall provide to Purchaser reasonable access to the Facility, the Site and all of Seller's engineering, procurement, construction, operations, maintenance, regulatory, financial and other books and records related to the Facility and the Site for the purposes of Purchaser's due diligence review thereof, subject to the provisions of this Section 19.3. During the Due Diligence Period, upon reasonable prior notice and during normal business hours, Seller shall provide access to the Site, the Facility (and any offices where any of the Project Assets are kept) to Purchaser and Purchaser's employees, representatives, consultants and other contractors, for the purpose of conducting such due diligence review of the Facility (each person or entity engaged by Purchaser to perform or assist with such due diligence review, a "Purchaser Representative"). All books and records provided by Seller to Purchaser in connection with such due diligence review shall be subject to the provisions of Section 20.15.

(C) Site Visits. Purchaser shall notify Seller's designated representative, by telephone, of each request to enter the Site to visit the Facility at least twenty-four (24) hours prior to the intended time of entry. Each such request shall specify the intended

date and time of entry and shall provide a reasonable description of the proposed scope of Purchaser's investigation, including the name of any Purchaser Representative who will be performing or participating in such investigation. A representative of Seller shall have the right, but not the obligation, to be present during any Site visit. None of Purchaser or any Purchaser Representative shall interfere with the use or occupancy of Seller of the Site or the operation or maintenance of the Facility. Purchaser and each Purchaser Representative shall comply with Seller's reasonable health and safety policies and procedures, and comply with all federal, state, and local laws, rules, regulations, and ordinances which might in any way relate to Purchaser's investigations, in each case during any Site visit.

(D) Purchase Price. [redacted] "Independent" for purposes of this Section 19.3(D) shall mean that neither Party nor any of its Affiliates has engaged such company to provide any services to such Party in the past three (3) years. [redacted]

(E) Purchase and Sale Agreement. Within sixty (60) Days of the Parties' determination of the agreed [redacted] of the Facility or the determination of the [redacted] of the Facility by the independent appraiser, as applicable, the Parties shall negotiate with due diligence and in good faith the provisions of, and shall prepare, finalize and execute, a purchase and sale agreement for the Facility containing customary provisions for transactions similar to the purchase and sale of the Facility (the "PSA"). In addition, the PSA shall provide that the closing thereunder shall not occur prior to the expiration of the Delivery Period, as applicable. Thereafter, the Parties shall each perform their respective covenants under the PSA and proceed with due diligence and in good

faith to satisfy all conditions precedent to the closing of the purchase and sale of the Facility (including required regulatory approvals), subject to and in accordance with the provisions of the PSA.

(F) Closing. Subject to the provisions of the PSA, Purchaser shall pay to Seller the [redacted] of the Facility as determined in accordance with this Section 19.3 in cash at the closing of the purchase and sale of the Facility, and Seller shall assign and convey to Purchaser the Facility and related Project Assets free and clear of all liens other than those permitted by the terms of the PSA.

(G) [redacted]

(H) Termination. Upon closing of the purchase and sale of the Facility pursuant to the PSA, this REPA shall terminate.

19.4 Accommodation of Facility Financiers.

To facilitate Seller's obtaining of financing with respect to the Facility, Purchaser shall make reasonable efforts to enter into the Consent and Agreement (with respect to any debt financing) or an estoppel in a form reasonably satisfactory to Purchaser (with respect to any equity financing) and to provide such other certifications, representations or other documents as may be reasonably requested by the Facility Financing Representative; provided, that in responding to any such request, Purchaser shall have no obligation to enter into any agreement that materially or adversely affects any of Purchaser's rights, benefits, risks or obligations under this REPA. Seller shall reimburse, or shall cause the Facility Financing Representative to reimburse, Purchaser for expenses (including the reasonable fees and expenses of counsel) incurred by Purchaser in the preparation, negotiation, execution and delivery of the applicable Consent and Agreement, estoppel and other documents pursuant to this Section 19.3 in an amount for each closing of any such financing equal to the actual third-party expenses incurred by Purchaser in connection with such closing.

19.5 Notice of Facility Financier Action.

Within ten (10) Days following Seller's receipt of each written notice from the Facility Financiers of default, or Facility Financiers' intent to exercise any remedies, under the Financing Documents, Seller shall deliver a copy of such notice to Purchaser.

19.6 Transfer Without Consent is Null and Void.

Any sale, transfer, or assignment of any interest in the Facility or in this REPA made without fulfilling the requirements of the REPA shall be null and void and shall constitute an Event of Default pursuant to Article 12.

ARTICLE 20
MISCELLANEOUS

20.1 Waiver.

Subject to the provisions of Section 13.9(B), the failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this REPA, or to take advantage of any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

20.2 Taxes.

(A) Each Party shall use reasonable efforts to implement the provisions of and to administer this REPA in accordance with the intent of the Parties to minimize all Taxes, so long as neither Party is materially adversely affected by such efforts. Notwithstanding the foregoing, neither Party shall be obligated to incur any financial burden to reduce taxes for which the other Party is responsible hereunder.

(B) Seller shall pay or cause to be paid (and shall indemnify and hold Purchaser harmless from and against) all sales, use, excise, ad valorem, transfer and other similar taxes that are imposed by any taxing authority (individually, a "Tax" and collectively, "Taxes") on or with respect to the Facility or the sale of Renewable Energy Products incurred prior to the delivery of Renewable Energy Products to the Point of Delivery. Purchaser shall pay or cause to be paid (and shall indemnify and hold Seller harmless from and against) all Taxes on or with respect to the sale of Renewable Energy Products incurred upon and after the delivery of Renewable Energy Products to the Point of Delivery (other than ad valorem, franchise, income, or commercial activity taxes, and transactional taxes or fees imposed by law on the Seller that are related to the sale of Renewable Energy Products and are, therefore, the responsibility of the Seller). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, the responsible Party shall promptly reimburse the other for such Taxes.

(C) In the event any of the sales of Renewable Energy Products hereunder are exempt or excluded from any particular Tax(es) payable by Purchaser, Purchaser shall provide Seller with all necessary documentation within thirty (30) days after the execution of this REPA to evidence such exemption or exclusion (or, with regard to any such Tax(es) enacted after the date of this REPA, Purchaser shall provide Seller with such documentation before the date on which the enactment requires the delivery of documentation to Seller in order to effect an exclusion or exemption from such Tax(es)).

20.3 Fines and Penalties.

(A) Seller shall pay when due all fees, fines, penalties or costs to the extent incurred by Seller or its agents, employees or contractors for noncompliance by Seller, its employees, or subcontractors with any provision of this REPA, or any contractual obligation, permit or requirements of law except for such fines, penalties and costs that are being actively contested in good faith and with due diligence by Seller and for which adequate financial reserves have been set aside to pay such fines, penalties or costs in the event of an adverse determination.

(B) If fees, fines, penalties, or costs are claimed or assessed against either Party by any Governmental Authority due to noncompliance by the other Party with this REPA, any requirements of law with which compliance is required by this REPA, any permit or contractual obligation, or, if the work of the other Party or any of its contractors or subcontractors is delayed or stopped by order of any Governmental Authority due to the other Party's noncompliance with any requirements of law with which compliance is required by this REPA, permit, or contractual obligation, penalized Party shall indemnify and hold other Party harmless against any and all reasonable losses, liabilities, damages, and claims suffered or incurred by other Party, including claims for indemnity or contribution made by third parties against other Party, except to the extent other Party recovers any such losses, liabilities or damages through other provisions of this REPA.

20.4 Rate Changes.

The terms and conditions and the rates for service specified in this REPA shall remain in effect for the term of the transaction described herein. Absent the Parties' written agreement, this REPA shall not be subject to change by application of either Party pursuant to Section 205, 206 or 306 of the Federal Power Act.

Absent the agreement of all parties to the proposed change, the standard of review for changes to this REPA whether proposed by a Party, a non-party, or the Federal Energy Regulatory Commission acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956), Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), as clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) and NRG Power Marketing, LLC et al. v. Maine Public Utilities Commission, 558 U.S. 165 (2010) (the "Mobile-Sierra doctrine"), or such other standard of review permissible to preserve the intent of the Parties pursuant to this Section to uphold this REPA without modification.

20.5 Disclaimer of Third Party Beneficiary Rights.

In executing this REPA, neither Party does, nor should it be construed to, extend its credit or financial support for the benefit of any third parties, including those lending money to or having other transactions with the other Party. Except with respect to the Consent and Agreement, nothing in this REPA shall be construed to create any

duty to, or standard of care with reference to, or any liability to, any Person not a party to this REPA.

20.6 Relationship of the Parties.

(A) This REPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party nor to create any agency relationship between the Parties or impose any fiduciary responsibility on either Party or create any trust or trust obligations on either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

(B) Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform its obligations under this REPA, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of Purchaser for any purpose; nor shall Seller represent to any Person that he or she is or shall become a Purchaser employee.

20.7 Equal Employment Opportunity Compliance Certification.

Seller acknowledges that as a government contractor Purchaser is subject to various federal laws, executive orders, and regulations regarding equal employment opportunity and affirmative action. These laws may also be applicable to Seller as a subcontractor to Purchaser. Seller shall comply with all applicable equal opportunity and affirmative action federal laws, executive orders, and regulations, including, if applicable, 41 C.F.R. §60-1.4(a)(1-7).

20.8 Survival of Obligations.

Cancellation, expiration, or earlier termination of this REPA shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration, or termination, prior to the term of the applicable statute of limitations, including warranties, remedies, or indemnities, which obligations shall survive for the period of the applicable statute(s) of limitation.

20.9 Severability.

In the event any of the terms, covenants, or conditions of this REPA, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the REPA and their application not adversely affected thereby shall remain in force and effect; provided, however, that Purchaser and Seller shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this REPA with a view toward effecting the purposes of this REPA by

replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.

20.10 Complete Agreement; Amendments.

The terms and provisions contained in this REPA constitute the entire agreement between Purchaser and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between Purchaser and Seller with respect to the sale of Renewable Energy Products from and associated with the Facility. This REPA may be amended, changed, modified, or altered, provided that such amendment, change, modification, or alteration shall be in writing and signed by both Parties hereto.

20.11 Binding Effect.

This REPA, as it may be amended from time to time pursuant to Section 20.10, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors-in-interest, legal representatives, and assigns permitted hereunder.

20.12 Headings.

Captions and headings used in this REPA are for ease of reference only and do not constitute a part of this REPA.

20.13 Counterparts.

This REPA may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

20.14 Governing Law.

The interpretation and performance of this REPA and each of its provisions shall be governed and construed in accordance with the laws of the State of New York, without regard to its conflicts of laws provisions.

20.15 Confidentiality.

This REPA and any information provided by either Party to the other Party pursuant to this REPA and labeled "CONFIDENTIAL" or with words of similar meaning will be utilized by the receiving Party solely in connection with the purposes of this REPA and will not be disclosed by the receiving Party to any third party, except with the providing Party's consent, and upon request of the providing Party will be returned thereto, except that the receiving Party will not be obligated to return any such information contained in documents generated by the receiving Party that: (1) reflect or refer to confidential information provided by the disclosing Party; and (2) are stored electronically by the receiving Party. With respect to any such retained electronically stored confidential

information, the receiving Party will continue to comply with the obligations of this Section 20.15. Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that such confidential information may be disclosed to (i) the Interconnection Provider, Affiliates or any other Person (including subcontractors, consultants, accountants, financial advisors, experts, legal counsel and other professional advisors to the Parties) as required for settlement and billing or otherwise to perform under or administer this REPA; and (ii) in case of Seller, to Facility Financiers or potential Facility Financiers, potential bidders and bidders for, and potential purchasers and purchasers of, direct or indirect ownership interests in the Facility (including direct or indirect interests in the equity interests of Seller). To the extent that such disclosures are necessary, the Parties also agree that they will in disclosing such information seek to preserve the confidentiality of such disclosures, by requiring a party receiving confidential information to be bound by the terms of this REPA applicable to such a confidential information. Without limiting the foregoing, this Section 20.15 will not prevent a Party from providing confidential information to any Governmental Authority formally or otherwise, as required in connection with any regulatory proceeding, as required for obtaining any regulatory approval or making any regulatory filing, provided that each Party agrees to cooperate with the other to maintain the confidentiality of the provisions of this REPA by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law. This provision will not prevent either Party from providing any confidential information received from the other Party to any court or regulatory proceeding or in accordance with a proper discovery request or in response to the reasonable request or need of any Governmental Authority charged with regulating the disclosing Party's affairs or in accordance with the request of any applicable stock exchange, provided that, if feasible, the disclosing Party will give prior notice to the other Party of such disclosure and, if so requested by such other Party, will have used all reasonable efforts to oppose or resist the requested disclosure, as appropriate under the circumstances, or to otherwise make such disclosure pursuant to a protective order or other similar arrangement for confidentiality.

20.16 Forward Contract.

The Parties acknowledge and agree that this REPA and the transactions contemplated by this REPA constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this REPA as of the date set forth in the preamble hereof.

Seller:

HCE Collier Solar, LLC

By: /s/ Stanford H. Allison

Name: Stanford H. Allison

Title: Manager

Purchaser:

Appalachian Power Company

By: /s/ Aaron D. Walker

Name: Aaron D. Walker

Title: President & COO

EXHIBIT A

FACILITY DESCRIPTION AND SITE MAP

Facility Description

Size: 7.5 MW AC, 9.75 MW DC
Location: Wise County, Virginia, [redacted]
Site Acreage: 96 acres
Point of Interconnection: [redacted]
Major Equipment*:
Modules: [redacted]
Inverters: [Manufacturer, Model Number and Quantity]
Racking: [Manufacturer, Model Number]
*To be finalized and supplemented prior to COD.

Site Map

[redacted]

EXHIBIT B

CONTRACT RATE

($ Per MWh)

The Contract Rate during the Delivery Period shall be an [redacted]

EXHIBIT C

NOTICE ADDRESSES

Purchaser	Seller
Invoices: [redacted]	**Notices:** [redacted]
Notices and Insurance (other than invoices): Appalachian Power Company c/o American Electric Power Service Corporation 1 Riverside Plaza, 14th Floor Columbus, OH 43215 Attn: Commercial Operations	**Notices (other than operational notices):** Holocene Clean Energy 4325 Lake Boone Trail, Suite 220 Raleigh, NC 27067 Attn: Chief Executive Officer
with copies to: American Electric Power Service Corporation 1 Riverside Plaza, 27th Floor Columbus, OH 43215 Attn: Director, Credit Risk Department Email: [redacted]	**With copies to:** Holocene Clean Energy 4325 Lake Boone Trail, Suite 220 Raleigh, NC 27067 Attn: Chief Operating Officer
and American Electric Power Service Corporation 1 Riverside Plaza, 29th Floor Columbus, OH 43215 Attn: Chief Counsel, CO&L	

Contract Administration Committee Representative: [redacted] Phone: [redacted] Email: [redacted] **Alternate:** To be designated in writing by Purchaser at or prior to the first meeting of the Contract Administration Committee	**Contract Administration Committee Representative:** [redacted] Phone: [redacted] Email: [redacted] **Alternate:** To be designated in writing by Seller at or prior to the first meeting of the Contract Administration Committee

EXHIBIT D

SPECIFICATION OF INSURANCE COVERAGE

(Refer to Article 16 Insurance for Additional Requirements)

Type of Insurance	Minimum Limits of Coverage
Commercial General Liability (CGL)	$11,000,000 combined single limit per occurrence, which may be met by any combination of Primary and Excess/Umbrella coverages. If CGL insurance contains a general aggregate limit, it shall apply separately to the Facility. CGL insurance shall be written on an ISO occurrence form reasonably acceptable to Purchaser and shall cover liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. CGL insurance shall include ISO endorsement CG 24 17 (or an equivalent endorsement) which modifies the definition of "Insured contract" to eliminate the exclusion of easement or license agreements in connection with construction or demolition operations on or within 50 feet of a railroad. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from explosion, collapse, or underground (XCU) property damage. Purchaser shall be included as an insured under the CGL policy, using ISO additional insured endorsement CG 20 10 (or a substitute providing equivalent coverage), and under the commercial umbrella insurance. The commercial umbrella insurance shall provide coverage over the top of the CGL insurance, the Business Automobile Liability insurance, and the Employers Liability insurance. The CGL and commercial umbrella insurance to be obtained by or on behalf of Seller shall be endorsed as follows: Such insurance as afforded by this policy for the benefit of Purchaser shall be primary as respects any claims, losses, damages, expenses, or liabilities arising out of this REPA, and insured hereunder, and any insurance carried by Purchaser shall be excess of and noncontributing with insurance afforded by this policy.
Business Automobile Liability	$1,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos

	Business Automobile Liability insurance shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. The policy shall provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.
Workers Compensation	Statutory Requirements. Seller may comply with these requirements through the use of a qualified self-insurance plan.
Employers Liability	$1,000,000 each accident for bodily injury and disease. .
Builder's Risk	Replacement value of the Facility. Builder's Risk insurance, or an installation floater, shall include coverage for earthquake and flood, collapse, faulty workmanship, materials and design, testing of machinery or equipment, freezing or changes in temperature, debris removal, and partial occupancy.
Environmental Impairment Liability	$5,000,000 each occurrence.
"All-Risk" Property insurance covering physical loss or damage to the Facility	"All risk" property insurance covering the full replacement value of the Facility. A commercially reasonable deductible may be carried which deductible shall be the sole responsibility of Seller. "All-Risk" Property insurance shall include coverage for all risks of physical loss or damage unless otherwise excluded, including coverage for: (i) coverage for fire, flood, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sublimits of no less than $10,000,000 each for flood and earthquake; and (ii) Boiler and Machinery breakdown insurance covering all objects customarily subject to such insurance, including boilers and turbines, in an amount equal to their full replacement value.
Business Interruption insurance	Amount required to cover Seller's continuing or increased expenses, resulting from full interruption, for a period of twelve (12) calendar months Business Interruption insurance shall cover loss of revenues and the increased expense to resume operations attributable to the Facility by reason of total or partial suspension or delay of, or interruption in, the operation of the Facility as a result of an insured peril covered under Property insurance as set forth above, to the extent available on commercially reasonable terms as determined by Purchaser, subject to a reasonable deductible or waiting period, which shall be the responsibility of Seller. Notwithstanding any other provision of this REPA, Seller shall not be required to have Business Interruption insurance until the Commercial Operation Date.

EXHIBIT E

CALCULATION OF A[redacted]

The following procedure shall be used at the end of each Contract Year to calculate the Performance Ratio (PR) for the next Contract Year, starting at the end of the first Contract Year to calculate the PR for the second Contract Year. If the facility has module types with differing module temperature coefficients, the data logging and PR calculation will be separate and segregated according to module type.

1.) On an annual basis Seller shall calibrate and test (a) all Electric Metering Devices in accordance with Section 5.4 of the REPA and (b) all pyranometers using the National Renewable Energy Laboratory's (NREL) Broadband Outdoor Radiameter Calibration (BORCAL) procedures (or equivalent). Purchaser will be provided documentation of all testing and calibration results.

2.) Seller shall accomplish data collection and logging in accordance with Sections 5 thru 12 of IEC 61724-1.

3.) [redacted]

4.) [redacted]

5.) [redacted]

6.) [redacted]

7.) [redacted]

[redacted]

[redacted]

EXHIBIT F

POINT OF DELIVERY

[redacted]

[redacted]

EXHIBIT G

[redacted]

AMERICAN ELECTRIC POWER®

BOUNDLESS ENERGY℠

Solar Farm Data Requirements
PJM PPA non-MP

Revision History

Date	Version	Description	Author
4-30-2021	1.0	New document created for Solar PPA	CommOps, PSCO, Transmission Settlements

Requirements Specification

1 [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

#	Data Elements	Description
Information: Facility Details		
[redacted]		

[redacted]

[redacted]

[redacted]

APPENDIX A
Acronyms and Abbreviations

Acronyms, Abbreviations	Description
[redacted]	[redacted]

EXHIBIT H

CALCULATION OF [redacted]

[redacted] shall be calculated as follows:

a) The **Guaranteed Availability (%)** means an Availability of the Facility for each applicable Calculation Period during the Term equal to [redacted], multiplied by the Proration Factor, if applicable, with respect to any Contract Year that is not a full calendar year.

b) The actual **Availability (%)** for the Facility during the Calculation Period shall be the [redacted] for the Calculation Period.

c) The [redacted]

d) The [redacted] for the Calculation Period shall be calculated as follows:

[redacted]

e) The [redacted] for the Calculation Period shall be calculated as follows:

[redacted]

- The [redacted]

- The [redacted] for the Calculation Period shall be [redacted]

- The [redacted] for the Calculation Period shall be [redacted]

- The [redacted]

f) The [redacted]

EXHIBIT I

FORM OF AVAILABILITY NOTICE

MONTH	AVAILABILITY, %	GENERATION, MW
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

EXHIBIT J

FORM OF LETTER OF CREDIT

Irrevocable Standby Letter of Credit No. _____

[BANK]
[Address]
Attention: [Standby Letter of Credit Section]

Date: ***(Bank Use Only)***

BENEFICIARY	**APPLICANT**
Appalachian Power Company C/O American Electric Power Service Corporation 1 Riverside Plaza, 14th Floor Columbus, OH 43215 Attn: Contract Administration	[Name] [Address]

Currency:	USD
Amount	$_____ (_____and 00/100 U.S. Dollars)
Available by:	Payment at our counter
Expiry Date:	(One year from issuance) at the close of business at _____, _____

LADIES/GENTLEMEN:

We hereby issue our Irrevocable Standby Letter of Credit No. _____ ("Letter of Credit") in your favor. This Letter of Credit is available by sight payment with ourselves only against presentation to this office at the above address of your Sight Draft and Certificate in the form of Annex A, appropriately completed and purportedly signed by one of your authorized representatives.

Partial and multiple drawings are permitted.

This Letter of Credit shall be deemed automatically extended without an amendment for a one year period beginning on the present expiration date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiration date we have sent you written notice by courier service or overnight mail that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored.

This Letter of Credit shall finally expire on _____, _____ (the "Final Expiry Date") if it has not previously expired in accordance with the preceding paragraph.

This Letter of Credit sets forth in full terms of our undertaking, and such terms shall not be modified amended or amplified by any document, instrument or agreement referred to in this Letter of Credit, in which this Letter of Credit is referred to or which this Letter of Credit relates.

This Letter of Credit shall not be amended except with the written concurrence of [Insert Issuing Bank] and the Beneficiary.

In the event of an Act of God, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date twenty (20) calendar days after the place for presentation reopens for business.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification and is our individual obligation which is in no way contingent upon reimbursement or any right of subrogation. We irrevocably waive any and all rights of subrogation, whether as provided by statute or otherwise, now or hereafter that might, but for such waiver, exist, in respect to this Letter of Credit or any payment we make under it, as to the Applicant, you, or the transaction between you and _____. We further give irrevocable notice that we are not now and will not be the secondary obligor or co-obligator of Applicant's or _____'s obligations and liabilities to you for any purpose. Our obligations to you under this Letter of Credit are our primary obligations and are strictly as stated herein.

SPECIAL INSTRUCTIONS:

The original of this Letter of Credit must be presented together with the above documents in order to endorse the amount of each drawing on the reverse side.

All banking charges, commissions and expenses under this Letter of Credit are for the account of the Applicant.

We hereby agree with you that drafts drawn under and in compliance with the terms of this credit will be duly honored within no more than three (3) business days upon presentation and delivery to [Insert Issuing Bank], at the address above. Documents are to be sent in one lot by courier service, overnight mail or hand delivery.

This letter of credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Publication No. 600

Annex A

SIGHT DRAFT AND CERTIFICATE

BANK]
[Address]
Attention: [Standby Letter of Credit Section]

Re: [Bank] Irrevocable Standby Letter of Credit No. _____, dated [DATE] ("Letter of Credit")

All capitalized terms used, but not defined herein, shall have respective meanings assigned to them in the Letter of Credit. The term "REPA" means that certain Renewable Energy Purchase Agreement for Solar Energy Resources, dated [DATE], between _____ ("Seller") and the Beneficiary.

The undersigned hereby certifies to you as follows:

(a) The undersigned is duly authorized by the Beneficiary to execute and deliver this Sight Draft and Certificate.

(b) The draw event authorizing this Sight Draft and Certificate is: [SELECT THE APPLICABLE DRAW EVENT]:

(i) Seller has failed to renew or replace the Letter of Credit with a substitute Seller Security Fund pursuant to the REPA at least thirty (30) calendar days prior to the date on which the Letter of Credit shall terminate; or

(ii) The unsecured debt rating of the issuer of the Letter of Credit has fallen below A-/A3 and the Seller has failed to replace the Letter of Credit with a substitute Seller Security Fund pursuant to the REPA within ten (10) calendar days after receiving written notice from Beneficiary to do so; or

(iii) The amount of U.S.$_____ (the "Owed Amount") is due and payable under the REPA by Seller to the Beneficiary, which Owed Amount Beneficiary has not been paid within ten (10) calendar days after Beneficiary has given Seller written notice thereof; or

(iv) An Event of Default (as defined in the REPA) other than the Event of Default described in Section 12.1(C) has occurred and is continuing with respect to Seller under the REPA.

The undersigned Beneficiary is making a drawing under the Letter of Credit in the case of the applicable draw event described in (b)(iii) above, [in the amount of the Owed Amount] OR in the case of such other draw event described in (b) above, for the entire undrawn amount of the Letter of Credit.

The proceeds from this drawing under the Letter of Credit will be used to satisfy Seller's obligations to the Beneficiary under the REPA.

This demand for a drawing under the Letter of Credit and certification are made as of the date hereof.

APPALACHIAN POWER COMPANY

By: _____
Name:
Title:

EXHIBIT K

FORM OF GUARANTY

This Guaranty Agreement (the "Guaranty") is made by _____ ("Guarantor"), an _____ (state of formation) _____ (entity type: Corporation, LLC, LP, etc.), in favor of Appalachian Power Company (the "Beneficiary").

WHEREAS, Beneficiary is or may become party to that certain Renewable Energy Purchase Agreement dated as of _____ by and between [SELLER] ("Company") and the Beneficiary (the "Agreement"); and

WHEREAS, the Guarantor is an affiliate of Company, and will receive substantial and direct benefits from the transactions contemplated by the Agreement and has agreed to enter into this Guaranty to provide assurance for the payment obligations of Company in connection with the Agreement and to induce the Beneficiary to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees as follows:

1. **Guaranty**. The Guarantor hereby unconditionally, irrevocably and absolutely guarantees the punctual payment when due (subject to written demand in accordance with Paragraph 6 below) of Company's payment obligations arising under the Agreement, as such Agreement may be amended or modified by agreement between Company and the Beneficiary from time to time (collectively, the "Guaranteed Obligations"). In addition, Guarantor shall reimburse Beneficiary for all sums paid to Beneficiary by Company with respect to such Guaranteed Obligations which Beneficiary is subsequently required to return to Company or a representative of Company's creditors as a result of Company's bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding. The Guarantor's obligations and liability under this Guaranty shall be limited to payment obligations only and the Guarantor shall have no obligation to perform under the Agreement, including, without limitation, to sell, deliver, supply or transport gas, electricity or any other commodity.

   If all or a part of any payment made by Guarantor to Beneficiary hereunder is later determined to have been improper because such amount was not actually owed by Company to Beneficiary under the Agreement or such payment was otherwise unjustified, Beneficiary shall repay such amount to Guarantor within ten (10) business days of written demand by Guarantor together with any interest, reasonable attorneys' fees, and/or costs of collection, if any, required by the Agreement to be paid by Beneficiary in the collection of such amount.

2. **Guaranty Absolute**. The liability of Guarantor under this Guaranty shall be absolute, irrevocable and unconditional irrespective of:

(a) any defect or deficiency in the Agreement or any other documents executed in connection with any Agreement;

(b) any modification, extension or waiver of any of the terms of the Agreement;

(c) any change in the time, manner, terms or place of payment of or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from the Agreement or any other agreement or instrument executed in connection therewith;

(d) any sale, exchange, release or non-perfection of any property standing as security for the liabilities hereby guaranteed or any liabilities incurred directly or indirectly hereunder or any setoff against any of said liabilities, or any release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;

(e) except as to applicable statutes of limitation, failure, omission, delay, waiver or refusal by the Beneficiary to exercise, in whole or in part, any right or remedy held by the Beneficiary with respect to the Agreement or any transaction under the Agreement; or

(f) any change in the existence, structure or ownership of the Guarantor or Company, or any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.

The obligations of the Guarantor hereunder are several and not joint with Company or any other person, and are primary obligations for which the Guarantor is the principal obligor. There are no conditions precedent to the enforcement of this Guaranty, except as expressly set forth in Paragraph 6 below. It shall not be necessary for the Beneficiary, in order to enforce payment by the Guarantor under this Guaranty, to exhaust its remedies against Company, any collateral pledged by Company, any other guarantor, or any other person liable for the payment or performance of the Guaranteed Obligations. This Guaranty is one of payment and not of collection and shall apply regardless of whether recovery of all such Guaranteed Obligations may be discharged, or uncollectible in any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.

Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which Company is or may be entitled to arising from or out of the Agreements or otherwise, except as limited herein and except for defenses arising out of the bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting Company or its assets.

3. **Waiver**. Guarantor hereby waives:

(a) except for the acceptance required from Beneficiary below, notice of acceptance of this Guaranty, notice of the creation or existence of any of the Guaranteed Obligations and notice of any action by the Beneficiary in reliance hereon or in connection herewith;

(b) notice of the entry into the Agreement between Company and the Beneficiary and notice of any amendments, supplements or modifications thereto; or any waiver of consent under any Agreement, including waivers of the payment and performance of the obligations thereunder;

(c) notice of any increase, reduction or rearrangement of Company's obligations under the Agreement or notice of any extension of time for the payment of any sums due and payable to the Beneficiary under the Agreement;

(d) except as expressly set forth herein, presentment, demand for payment, notice of dishonor or nonpayment, protest and notice of protest or any other notice of any other kind with respect to the Guaranteed Obligations; and

(e) any requirement that suit be brought against, or any other action by the Beneficiary be taken against, or any notice of default or other notice be given to, or any demand be made on, Company or any other person, or that any other action be taken or not taken as a condition to the Guarantor's liability for the Guaranteed Obligations under this Guaranty or as a condition to the enforcement of this Guaranty against the Guarantor.

4. **Subrogation**. The Guarantor shall be subrogated to all rights of the Beneficiary against Company in respect of any amounts paid by the Guarantor pursuant to the Guaranty, provided that the Guarantor waives any rights it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise (including, without limitation, any statutory rights of subrogation under Section 509 of the Bankruptcy Code, 11 U.S.C. §509, or otherwise), reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of the Beneficiary against Company or any collateral which the Beneficiary now has or acquires, until all of the Guaranteed Obligations shall have been irrevocably paid to the Beneficiary in full. If (a) the Guarantor shall perform and shall make payment to the Beneficiary of all or any part of the Guaranteed Obligations and (b) all the Guaranteed Obligations shall have been paid in full, the Beneficiary shall, at the Guarantor's request, execute and deliver to the Guarantor appropriate documents necessary to evidence the transfer by subrogation to the Guarantor of any interest in the Guaranteed Obligations resulting from such payment by the Guarantor.

5. **Notices**. All demands, notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing addressed to the party receiving the notice at the address set forth below or at such other address as may be designated by written notice, from time to time, to the other

party, and (b) be effective upon delivery, when mailed by U.S. mail, registered or certified, return receipt requested, postage prepaid, or personally delivered. Notices shall be sent to the following addresses:

If to Beneficiary:

Appalachian Power Company
C/O American Electric Power Service Corporation
1 Riverside Plaza, 27th Floor
Columbus, OH 43215
Attn: Chief Credit Officer

If to Guarantor:

[Address]

6. **Demand and Payment**. Beneficiary is not entitled to make demand upon Guarantor until (i) ten (10) business days after an invoice due date as provided in Section 12.9 of the Agreement or (ii) an Event of Default (as defined in the Agreement) occurs. Any demand by the Beneficiary for payment hereunder shall be in a writing referencing this Guaranty and the Guaranteed Obligations, signed by a duly authorized representative of the Beneficiary and delivered to the Guarantor pursuant to Paragraph 5 hereof. There are no other requirements of notice, presentment or demand. The Guarantor shall pay, or cause to be paid, such Guaranteed Obligations within ten (10) business days of receipt of such demand.

7. **Costs and Expenses**. In the event Beneficiary engages in litigation to enforce this Guaranty, Guarantor agrees to pay, in addition to any amounts of Company which Guarantor has otherwise guaranteed to pay hereunder, any and all costs and expenses incurred by Beneficiary (including reasonable attorneys' fees) in enforcing this Guaranty.

8. **No Waiver; Remedies**. Except as to applicable statutes of limitation, no failure on the part of Beneficiary to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

9. **Term; Termination**. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of (i) the expiration of the Agreement and (ii) the date that all of the Guaranteed Obligations shall have been fully satisfied (the "Termination Date"); provided, however, the termination of this Guaranty shall not affect Guarantor's obligations hereunder with respect to any transaction entered into prior to such Termination Date.

10. **Assignment; Successors and Assigns**. Neither Guarantor nor the Beneficiary shall assign its rights or obligations hereunder without the prior written consent of the other party, and any assignment without such prior written consent shall be null and void and of no force or effect. Notwithstanding the foregoing, the Guarantor may without the prior written consent of the Beneficiary assign its rights hereunder to any entity that purchases all or substantially all of the assets of the Guarantor, or upon a permitted assignment of the Agreement, to any entity that shall assume in writing the obligations of the Guarantor, provided such successor entity is organized and domiciled under the laws of the United States and has a credit rating equal or superior to the Guarantor (but in no event worse than at least BBB- from Standard and Poor's or Baa3 from Moody's). This Guaranty shall be binding upon and inure to the benefit of the each party hereto and their respective successors and permitted assigns.

11. **Amendments, Etc**. Subject to the Guarantor's right to terminate this Guaranty pursuant to Paragraph 9 hereof, no amendment of this Guaranty shall be effective unless in writing and signed by Guarantor and Beneficiary. No waiver of any provision of this Guaranty nor consent to any departure by the Guarantor therefrom shall in any event be effective unless such waiver shall be in writing and signed by Beneficiary. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

12. **Captions**. The captions in this Guaranty have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and provisions of this Guaranty.

13. **Representation and Warranties**.

The Guarantor represents and warrants as follows:

(a) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power to execute, deliver and perform this Guaranty [and is an eligible contract participant under United States law].

(b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

(c) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditor's rights and to general equity principles.

(d) The person signing this Guaranty on Guarantor's behalf has been properly authorized by corporate action to do so.

(e) Guarantor is an "eligible contract participant" as defined in 12 U.S.C. 5301.

14. **GOVERNING LAW. THIS GUARANTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD OR REFERENCE TO THE CONFLICT OF LAWS PRINCIPLES OF ANY OTHER JURISDICTION**. However, if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

15. **Entire Agreement and Termination of Prior Guaranty**. This Guaranty constitutes the entire agreement and understanding between Guarantor and Beneficiary with respect to the Guaranteed Obligations and supersedes and replaces in its entirety any and all guaranties previously issued by Guarantor to Beneficiary with respect to the Guaranteed Obligations, or any part of them (collectively, "Prior Guaranty"). Notwithstanding the fact that certain of Company's payment obligations that arise prior to the expiration or termination date of the Prior Guaranty (the "Pre-Existing Obligations") may, by the terms of the Prior Guaranty, continue to be guaranteed by the Prior Guaranty after such expiration or termination date, the Prior Guaranty is terminated for all purposes, including purposes of the Pre-Existing Obligations. All Pre-Existing Obligations are hereby deemed to be Guaranteed Obligations for the purposes of this Guaranty.

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IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized representative effective as of this _____ day of _____, ____ ("Effective Date").

_____

By:_____
Name:
Title:

ACCEPTED AND AGREED TO
THIS _____DAY OF _____, 202__

APPALACHIAN POWER COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT L

FORM OF CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT (this "Consent"), dated as of [_____], 202__, among APPALACHIAN POWER COMPANY, a Virginia corporation ("Purchaser"), [PROJECT COMPANY], *a* [_____] [*limited liability company*] ("Seller"), [FINANCIAL INSTITUTION], in its capacity as [Collateral Agent] (the "Collateral Agent") for the Secured Parties, as defined in the hereinafter defined Financing Agreement. Purchaser, Seller and the Collateral Agent shall be referred to hereunder as the "Parties" and, individually, as a "Party".

RECITALS

Purchaser and Seller have entered into that certain Renewable Energy Purchase Agreement for Solar Energy Resources, dated as of [_____], 202__ (as the same may be amended, modified or supplemented from time to time in accordance with the terms hereof, the "REPA" or the "Assigned Agreement").

Seller has entered into that certain [Financing Agreement] (as the same may be amended, modified or supplemented from time to time, the "Financing Agreement") relating to the construction financing of the approximately _____ megawatt solar photovoltaic generating facility located in _____ County, _____ (the "Project"), dated as _____, _____, among Seller, the financial institutions from time to time party thereto (collectively, the "Lenders"), [Provide further description of Financing Agreement].

AGREEMENT

1. Definitions.

Capitalized terms used but not defined in this Consent shall have the meanings given to them in the REPA, or if not defined therein, in the Financing Agreement. In addition, the following terms shall have the meanings set forth below with respect to each term:

"Qualified Operator" shall mean any entity that at the time it becomes a Transferee (i) has the financial means to operate and maintain the Project and perform its obligations under the Assigned Agreement, (ii) has, or has entered into contracts for operation of the Project with a Person or Persons that has or have, substantial experience in owning or operating solar photovoltaic electric generation facilities in the PJM region, and (iii) has met all applicable requirements for operating the Project in accordance with Good Utility Practices, including, without limitation, the requirements of the Transmission Operator or Distribution Provider.

"Secured Obligations" shall mean, collectively: all obligations and liabilities of Seller in respect of: (a) the principal of and interest on all loans made under the Financing Agreement; (b) all other amounts due and to become due to the Collateral Agent, the Lenders or any other financing parties under the Financing Agreement or any other document contemplated thereby, including, without limitation, the expenses, indemnities and interest which would accrue on any of the foregoing but for the commencement of a case by or against Seller under any applicable bankruptcy laws; and (c) the performance and observance of all of the covenants and agreements made by Seller under and in connection with the Financing Agreement.

2. Scope of Obligations.

Nothing in this Consent shall make Purchaser liable for any damages or other amounts under the Financing Agreement or for any other damages for which it would not otherwise be liable to Seller under the Assigned Agreement.

3. Consent to Assignment. Purchaser hereby:

(a) acknowledges and irrevocably consents to the assignment pursuant to the Security Agreement by Seller to the Collateral Agent for the benefit of the Secured Parties of the Assigned Agreement as security for the performance of the Secured Obligations;

(b) acknowledges and irrevocably agrees that the Collateral Agent (and the other Secured Parties) shall not be or become liable for the performance or observance of any of the obligations or duties of Seller under the Assigned Agreement, nor shall the Collateral Agent (nor the other Secured Parties) be or become liable to perform or observe any obligations or duties owing to Purchaser, in either case solely by reason of the assignment of the Assigned Agreement to the Collateral Agent hereunder, except as otherwise expressly provided in this Consent;

(c) acknowledges that, upon Purchaser's receipt of a notice from the Collateral Agent of an Event of Default, the Collateral Agent has the right to make all demands, give all notices, take all actions and exercise all rights of, Seller under the Assigned Agreement; and

(d) acknowledges and agrees, subject in all respects to the conditions and limitations contained in this Consent, that none of the following shall constitute, as between Purchaser and the Secured Parties, an Event of Default by Seller under the Assigned Agreement or shall result in a termination thereof: (i) the assignment by Seller to the Collateral Agent for the benefit of the Secured Parties of a first-priority lien on and security interest in the Project (including, without limitation, the Assigned Agreement); (ii) the operation of the Project by any Transferee that is a Qualified Operator upon the exercise of the Collateral Agent's and the Secured Parties' rights with respect to an Event of Default under, as

defined in and in accordance with the Financing Agreement; (iii) the commencement of a foreclosure or similar proceeding to enforce the lien of the Secured Parties against the Project (including, without limitation, the Assigned Agreement); (iv) the acquisition of the rights of Seller in the Project (including, without limitation, the Assigned Agreement) in foreclosure by the Collateral Agent or any Secured Party in connection with such party's exercise of its rights and remedies, at law, in equity or otherwise (or acceptance of an absolute assignment of the Project in lieu of foreclosure); or (v) the subsequent sale, assignment, and/or conveyance of the Project (including, without limitation, the Assigned Agreement) by the Collateral Agent or any other Secured Party after acquisition of the rights of Seller in the Project following any foreclosure or assignment in lieu of foreclosure.

4. Representations and Warranties.

(a) Purchaser hereby represents and warrants to the Collateral Agent, for the benefit of the Secured Parties, that: (i) Purchaser has the full power and authority to execute, deliver and perform this Consent and to carry out the transactions contemplated hereby; (ii) the execution and delivery of this Consent by Purchaser and the carrying out by Purchaser of the transactions contemplated hereby have been duly authorized by all requisite corporate action, and each of this Consent has been duly executed and delivered by Purchaser and constitutes the legal, valid and binding obligation of Purchaser, enforceable against it in accordance with the terms hereof and thereof, subject, as to enforceability, to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity; (iii) all authorizations, consents, approvals or orders of, notices to, or registrations, qualifications, declarations or filings with, any governmental authority, required for the execution, delivery and performance by Purchaser of this Consent or the carrying out by Purchaser of the transactions contemplated hereby, have been obtained and are in full force and effect; and (iv) none of the execution, delivery, and performance by Purchaser of this Consent, the compliance with the terms and provisions hereof, and the carrying out of the transactions contemplated hereby, conflicts or will conflict with or result in a breach or violation of any of the terms, conditions, or provisions of any law, governmental rule or regulation or the charter documents, as amended, or by-laws, as amended, of Purchaser or any applicable order, writ, injunction, judgment or decree of any court or governmental authority against Purchaser or by which it or any of its properties is bound, or any material loan agreement, indenture, mortgage, bond, note, resolution, contract or other agreement or instrument to which Purchaser is a party or by which it or any of its properties is bound.

(b) Purchaser further represents and warrants to the Collateral Agent, for the benefit of the Secured Parties that: (i) neither an Event of Default by Purchaser nor, to the best of its knowledge, after due inquiry, an Event of Default by Seller exists and is continuing under the Assigned Agreement; (ii) to the best of its knowledge, Purchaser has no existing counterclaims, offsets or defenses against Seller in respect of the Assigned Agreement; (iii) to the best of its

knowledge, after giving effect to Purchaser's consent to the assignment consented to by Purchaser under Section 3(a) herein, and recognizing that Seller has continuing and additional obligations to perform after the date of this Consent, there exists no present event or condition, except those expressly contained in the Assigned Agreement, which enable either Purchaser or Seller to terminate or suspend its obligations under the Assigned Agreement; (iv) except for the assignment to the Collateral Agent for the benefit of the Secured Parties, Purchaser has no notice of any assignment relative to any right, title and interest of Seller in, to and under the Assigned Agreement; (v) the Assigned Agreement and the instruments and documents referred to therein constitute the only agreements between Purchaser and Seller with respect to the matters and interests described therein; and (vi) there are no proceedings pending or, to its knowledge without inquiry, threatened against or affecting Purchaser in any court or by or before any governmental authority or arbitration board or tribunal which could reasonably be expected to have a material adverse effect on the ability of Purchaser to perform its obligations under the Assigned Agreement or this Consent.

5. Rights of the Secured Parties. Purchaser agrees that the Secured Parties, so long as any Secured Obligations shall remain outstanding, shall have the following rights with respect to the Assigned Agreement:

(a) Assignment, Amendments, Etc.

(i) No assignment by Purchaser of its obligations under the Assigned Agreement shall be effective unless (A) such assignment complies with the Assigned Agreement, and (B) Purchaser contemporaneously delivers to the Collateral Agent a copy of all notices due to Seller with respect to such assignment; and

(ii) no waiver, amendment, consent or other modification of the Assigned Agreement by Seller shall be effective without the prior written approval of the Collateral Agent (except for any waiver, amendment, and/or consent which is of a routine, ministerial or administrative nature or which is required by law or by any governmental authority).

(b) Performance of Seller's Obligations. If the Collateral Agent shall provide Purchaser with notice of an Event of Default by Seller under the Financing Agreement, then following Purchaser's receipt of such notice the Collateral Agent or any of the other Secured Parties may, but shall have no obligation to, perform one or more of the obligations of Seller under the Assigned Agreement and Purchaser will accept such performance, if otherwise in accordance with the terms of the Assigned Agreement and this Consent, in lieu of performance by Seller and in satisfaction of the obligations of Seller under the Assigned Agreement. In the event that the Secured Parties exercise any right under the Financing Agreement to assume possession and control of the Project they shall obtain the appointment of a Qualified Operator to assume possession and control of the Project prior to or

pending a foreclosure, and the Secured Parties shall cause the Project to be operated by such Qualified Operator.

(c) Copies of Notices. Purchaser shall acknowledges that is obligated to send the Collateral Agent copies of any notice furnished to Seller of the existence of an Event of Default under the Assigned Agreement or the termination of the Assigned Agreement, and certain other notices as expressly set forth in the Assigned Agreement; provided that any failure of Purchaser to send such notice shall not give rise to any liability to any Person on the part of Purchaser hereunder.

(d) Cure Rights.

(i) Subject to the terms of this Consent, the Collateral Agent and the Secured Parties shall have the right, but not the obligation, to cure any Event of Default under the Assigned Agreement which is capable of being cured.

(ii) As provided in the Assigned Agreement, the Assigned Agreement shall not be terminated automatically or terminated by Purchaser if the Collateral Agent or the Secured Parties cure each Event of Default thereunder which is capable of being cured within the cure period provided to Seller under the Assigned Agreement for such Event of Default.

(iii) Such cure periods shall commence with respect to the Collateral Agent and the Secured Parties as of the date notice is given to the Collateral Agent by Purchaser. Solely with respect to any Events of Default by Seller under the Assigned Agreement that cannot be cured by any Person other than Seller or its designated operator, as the owner or designated operator of the Project, if the Secured Parties declare an Event of Default under and in accordance with the Financing Agreement and promptly commence foreclosure proceedings, then, so long as the Secured Parties are diligently pursuing such foreclosure proceedings, the Secured Parties will be allowed such additional period, not to exceed one hundred eighty (180) days from the date of commencement of such proceedings, as is necessary to complete such proceedings in which to cure the existing Event(s) of Default under the Assigned Agreement. For the avoidance of doubt, the Collateral Agent and the other Secured Parties shall have cured all Events of Default which are capable of being cured on or prior to the completion of such proceedings.

(iv) Once an Event of Default under the Assigned Agreement is timely cured by the Collateral Agent or the Secured Parties, such event or condition shall no longer be deemed to be an Event of Default under the Assigned Agreement.

(e) Consent to Transfer; Continuation of Agreement. Purchaser consents to the transfer of Seller's interest in the Project to the Collateral Agent or

any other Secured Party, or their designee or to any other Person provided that (i) the Collateral Agent, the other Secured Parties or such other Person is or has retained a Qualified Operator to act as operator of the Project in lieu of Seller (collectively, a "Transferee"), (ii) the Collateral Agent or the other Secured Parties shall have caused the Assigned Agreement to be conveyed and transferred to the Transferee at the time of the transfer of the Project and shall have caused the Transferee to assume and to agree to be bound by all the terms and provisions of the Assigned Agreement, which has and continues to remain in full force and effect in accordance with its terms and (iii) the Collateral Agent or the other Secured Parties shall identify the Transferee in a written notice to Purchaser on or before the effective date of the transfer and shall furnish Purchaser with Transferee's written agreement to assume and to agree to be bound by all the terms and provisions of the Assigned Agreement, and Purchaser shall recognize such a Transferee as the "Seller" under the Assigned Agreement, if the Transferee shall or shall have:

(i) cure or cured within the relevant cure period established in the Assigned Agreement, as modified by subsection 6(d) above, all Events of Default of Seller which are then existing under the Assigned Agreement and which are capable of being cured at the time of such transfer; and

(ii) assume or assumed and perform all other obligations of Seller under the Assigned Agreement arising on or after the date of such transfer to the Transferee.

6. Replacement Agreements. If the Assigned Agreement is rejected or terminated as a result of any bankruptcy or insolvency proceeding involving Seller, and Purchaser has been reimbursed by any Person for all amounts which would be due and payable by Seller to Purchaser under the Assigned Agreement but for such bankruptcy or insolvency proceeding, the Collateral Agent may, within thirty (30) days after such rejection or termination, certify in writing to Purchaser that the Transferee intends to perform and is capable of performing the obligations of Seller arising after the date of such certification as and to the extent required under the Assigned Agreement. In such case, Purchaser shall execute and deliver to the Transferee a new agreement (a "Replacement Agreement") which shall be for the balance of the remaining term under such rejected Assigned Agreement. The Replacement Agreement shall contain the same conditions, agreements, terms, provisions and limitations as the original Assigned Agreement (except for any requirements which have been fulfilled by Seller and Purchaser prior to such rejection or termination or any Person thereafter), and except that the Transferee will be substituted where the Seller appears in Assigned Agreement.

7, Purchaser's Reliance on Written Notices by Agent. Seller agrees that Purchaser is entitled to rely on the written instructions of an employee, authorized representative or other agent of the Collateral Agent as permitted herein, including without limitation, any such notice concerning the existence and continuation of an Event of Default under the Financing Agreement, the destination of payments to

be made under the Assigned Agreement or whether the Secured Obligations have been fully paid or not, and that Purchaser may make payments that are due to Seller as directed by any such Person upon the written instructions of any such Person to do so. Seller waives any claims that it has or may have against Purchaser based upon the good faith reliance by it on such written instructions.

8. Notices. Any communications between the parties hereto or notices provided herein to be given may be given to the addresses set forth in the table below. All notices to be given under this Consent shall be in writing and shall be (i) delivered personally, (ii) sent by certified or registered first-class mail, postage prepaid, return receipt requested, or (iii) sent by a recognized courier service, with delivery receipt requested, to the intended recipient at its address as set forth on the signature pages below, unless the recipient has given notice of another address for receipt of notices. All notices sent hereunder shall be deemed to have been given when personally delivered or in the case of a notice mailed or sent by courier, upon receipt, at the address provided for herein; provided, however, if such notice is given after the close of business on a business day of the receiving party, or on a day on which the receiving party is not open for business, such notice shall be deemed to have been given on the next following business day.

If to Purchaser:

Appalachian Power Company
C/O American Electric Power Service Corporation
1 Riverside Plaza, 27th
Columbus, OH 43215
Attn: Contract Administration

with a copy to:

Attn: Chief Counsel, CO&L
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
Attn: Chief Counsel

If to Collateral Agent:

_____
_____
_____
Attn: _____
Telephone: _____

If to Seller: _____
_____.
_____
_____
Attention: _____
Telephone: _____

With a copy to:

_____
_____
_____
_____
Attention: _____
Telephone: _____

9. Arrangements Regarding Payments. Commencing on the date of this Consent and so long as the Financing Agreement remains in effect, Purchaser hereby agrees to make all payments required to be made by it under the Assigned Agreements in U.S. dollars and in immediately available funds, directly to Collateral Agent, acting for the benefit of the Lenders for deposit into the account described immediately below, or, if Purchaser has been notified that an Event of Default under the Financing Agreement or any Financing Document has occurred and is continuing, to such other Person and/or at such other address or account as Collateral Agent may from time to time specify in writing to Purchaser. Seller hereby instructs Purchaser, and Purchaser accepts such instructions, to make all payments due and payable to Collateral Assignor under the Assigned Agreement as set forth in the immediately preceding sentence.

Account #[_____]

10. Miscellaneous.

(a) Separate Counterparts; Amendments; Waiver. This Consent may be executed in separate counterparts, each of which when so executed and delivered shall be an original but all such counterparts shall constitute one and the same instrument. Until termination as to the respective party, neither this Consent nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by each of Purchaser, Seller and the Collateral Agent.

(b) Severability of Provisions. Any provision of this Consent which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

(c) Successors and Assigns. This Consent shall be binding upon and shall inure to the benefit of Purchaser and its successors and permitted assigns, Seller and its successors and permitted assigns, the Collateral Agent and the other Secured Parties and its or their successors and permitted assigns.

(d) Governing Law; Venue.

(i) This Consent shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed in such state.

(ii) Each of Purchaser, Seller and Collateral Agent irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum.

(e) Each of the parties hereto agrees to execute and deliver all such instruments and take all such action as may be reasonably necessary to effectuate the purposes of this Consent.

(f) No failure on the part of any party to exercise and no delay in exercising, any right under this Consent shall operate as a waiver of such right nor shall any single or partial exercise of any right under this Consent preclude any further exercise of such right or the exercise of any other right.

(g) Upon the reasonable request of Seller and the Collateral Agent, including immediately prior to permanent equity financing of the Project, Purchaser agrees to provide Seller with a certificate stating that as of the date of such certificate, the representations and warranties of Purchaser set forth in Sections 4(a) and 4(b) of this Consent are true and correct (and to the extent any such representation or warranty is not true and correct, providing appropriate modifications describing the events or circumstances rendering such representation or warranty untrue or incorrect). Nothing in any such certificate shall make Purchaser liable for any damages or other amounts under the Financing Agreement or for any other damages for which it would not otherwise be liable to Seller under the Assigned Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the Parties hereto have caused this Consent to be duly executed and delivered by its respective authorized officers or authorized persons as of the date first above written.

APPALACHIAN POWER COMPANY,

By:_____
Name:
Title:

Accepted and agreed:

[FINANCIAL INSTITUTION],
in its capacity as Collateral Agent hereunder

By:_____
Name:
Title:

By:_____
Name:
Title:

Accepted and agreed:

[PROJECT COMPANY],
a [_____] [limited liability company]

By: _____
Name:
Title: