



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 no more than the earlier of (i) ten (10) minutes' notice or (ii) any shorter period of time required under NERC or Regional Entity rules. 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 Delivery Period.

### 10.2 Outage and Performance Reporting.

(A) Seller shall comply in all material respects with all NERC, Regional Entity and the Transmission Operator generating unit outage and performance reporting requirements, as they may be revised from time to time, and as they apply to the Facility.

(B) If on any Day a Forced Outage of [REDACTED] or greater of the Facility Capacity occurs 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) If any Forced Outage of [REDACTED] or greater of the Facility Capacity occurs that is expected to be of a duration exceeding one hour and to be

resolved within the same Day of the occurrence thereof, 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: 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.

Subject to ARTICLE 17, 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 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 applicable reliability standards, including standards set by the Transmission Operator, the Regional Entity, NERC and FERC. To the extent that Seller fails to operate the Facility in accordance with such standards, and such failure results in monetary penalties being imposed on Purchaser by the Transmission Operator, the Regional Entity, 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; [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

#### 10.7 Forecasts.

(A) *Availability Forecast:* Seller shall furnish to Purchaser a notice substantially in the form attached hereto as Exhibit I (an "Availability Notice") at or before 9:00 a.m. CPT on the Business Day immediately prior to the first Day to which such Availability Notice shall relate that shall set forth the Facility Capacity that Seller anticipates will actually be available in each hour through the next Business Day and each subsequent Business Day to which such Availability Notice relates. 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 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 any Availability Notices and such 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.

(B) *Generation Forecast:* No later than (a) two (2) months prior to the Commercial Operation Date and (b) two months prior to the beginning of each calendar year thereafter during the Term, Seller shall submit to Purchaser a monthly generation forecast (MWh) for the following calendar year for the Facility.

#### 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 the end of 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] of the Facility Capacity at any one time may be scheduled during daylight hours during the [REDACTED]

[REDACTED]d; provided, however, that planned maintenance may

be scheduled during such period to the extent (i) required by or necessary to preserve any equipment warranties, (ii) of an Emergency or to prevent the loss of human life or an material adverse impact on the Facility, or (iii) 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 material 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.

Seller shall take all actions requested by Purchaser that are necessary to register for and maintain participation in any applicable system or program established by any Governmental Authority to monitor, track, certify or trade RECs; [REDACTED]

[REDACTED] 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 for the Renewable Energy in Purchaser's own name and to Purchaser's account, including any rights associated with any such 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, (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 certification system or program (including any Green-e certification 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 Section 10.9 to the extent 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. 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, Seller shall be responsible for all imbalance costs, operating reserves, and congestion costs under Section 5.6 until such time as the transmission of real-time data has been restored.

#### 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 Section 10.2, Section 10.7 and Section 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 Security Fund Amount.

(1) No later than fifteen (15) Days after the Effective Date, Seller shall transfer to Purchaser a Security Fund having an aggregate value equal to [REDACTED]. Seller shall thereafter maintain the Security Fund at such level until the date that is ten (10) Business Days after Purchaser provides notice to Seller that it has satisfied the condition precedent set forth in ARTICLE 6(A) (or that such condition precedent has otherwise been deemed waived) (the "Final Non-Appealable Order Date"); provided that the required amount of the Security Fund shall be reduced by the amount of any draw made by the Purchaser.

(2) On the Final Non-Appealable Order Date, Seller shall increase the Security Fund to have an amount of [REDACTED]. Seller shall thereafter maintain the Security Fund at such level throughout the remainder of the Term. From and after the Commercial Operation Date, in the event any portion of the Security Fund provided by Seller is applied by Purchaser to satisfy any outstanding obligations of Seller hereunder, Seller shall within ten (10) Days following Purchaser's written demand replace such Security Fund so that the amount of Security Fund Outstanding in favor of Purchaser is not less than the foregoing amount.

(B) If an Event of Default of Seller has occurred and is continuing, or if any undisputed amount is payable but unpaid by Seller to Purchaser pursuant to Section 11.1, 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 letter of credit. If the letter of credit 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 that 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 Security Fund 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 (a) an Event of Default of Purchaser does not exist and (b) Purchaser is a Creditworthy Entity (provided that, 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 (a) and (b) of Section 11.1(C)(2)(i), then the Cash shall be held with an Issuer that is an Acceptable Issuing Bank, either: (x) 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 (y) 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). Any Security Fund held pursuant to Section 11.1(C)(2)(ii) shall be subject to the following: (A) 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 (B) 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 or in form satisfactory to Purchaser.

(D) If the Issuer of any Security Fund instrument (i) is subject to a bankruptcy or insolvency proceeding, (ii) ceases to be an Acceptable Issuing Bank (in the case of a letter of credit Issuer) or (iii) ceases to be a Creditworthy Entity (in the case of an Issuer of a payment guaranty), or if 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 or instruments 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 that 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 Security Fund instrument 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)).

(E) If any Security Fund instrument is replaced in accordance with Section 11.1(C) or Section 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) the early termination of this REPA, (ii) the end of the Delivery Period or (iii) the date on which all of Seller's obligations under this REPA have been satisfied in full (other than contingent obligations with respect to which Purchaser has not made a claim), (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); or

(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.

(B) The filing of a case in bankruptcy or any proceeding under any other insolvency law against Seller as debtor shall constitute an Event of Default of Seller if such case or proceeding has not been dismissed within sixty (60) Days.

(C) 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).

(D) Seller's failure to comply with its obligations under Section 11.1 shall constitute an Event of Default of Seller if not cured within five (5) Business Days after the date of written notice from Purchaser to Seller and the Facility Financing Representative as provided for in Section 13.1;

(E) Seller's failure to make any payment required under this REPA (net of outstanding damages and any other rights of offset that Seller may have pursuant to this REPA), 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.

(F) Any of the following 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:

(1) Abandonment;

(2) 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; or

(3) 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.

(G) It shall be an Event of Default of Seller if any representation or warranty made by Seller in this REPA shall prove to have been false in any material respect when made or when deemed made or repeated, unless the fact, circumstance or condition that is the subject of such representation or warranty (i) is made true and correct within thirty (30) Days after the date of written notice from Purchaser to Seller as provided for in Section 13.1 and (ii) such cure removes any adverse effect on Purchaser of such fact, circumstance or condition being otherwise than as represented

(H) Seller's failure to achieve Commercial Operation by the Commercial Operation Milestone Date 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] period to achieve the Commercial Operation Date if, on or before the expiration of the [REDACTED] period, (i) Seller pays to Purchaser all Delay Liquidated Damages payable with respect to the [REDACTED] period 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] [REDACTED] s if all conditions of this paragraph are met. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(I) If the Availability of the Facility is [REDACTED] of the Guaranteed Availability for any two Calculation Periods occurring after the first Calculation Period, it shall constitute an Event of Default of Seller if Seller does not, prior to the date that is [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] of the Guaranteed Availability; provided, however, that, even if Seller does initiate such commercially

reasonable efforts prior to the date that is sixty (60) Days after the Shortfall Notice Date, if, at the end of the [REDACTED] beginning on the Shortfall Notice Date, the Availability of the Facility for such period [REDACTED] of the Guaranteed Availability 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] of the Guaranteed Availability, is reasonably achievable.

#### 12.2 Facility Financiers' Right to Cure Default of Seller.

Following execution of a Consent and Agreement, Purchaser shall provide notice of any Event of Default of Seller to the Facility Financing Representative, and Purchaser will accept a cure to such Event of Default of Seller performed by the Facility Financing Representative, in accordance with the terms of the 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 this REPA or 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; or
- (4) Purchaser's assignment of this REPA, except as permitted in accordance with ARTICLE 19.

(B) The filing of a case in bankruptcy or any proceeding under any other insolvency law against Purchaser shall constitute an Event of Default of Purchaser if such case or proceeding has not been dismissed within sixty (60) Days.

(C) 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.

(D) 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.

(E) It shall be an Event of Default of Purchaser if any representation or warranty made by Purchaser in this REPA shall prove to have been false in any material respect when made or when deemed made or repeated, unless the fact, circumstance or condition that is the subject of such representation or warranty (i) is made true and correct within thirty (30) Days after the date of written notice from Seller to Purchaser as provided for in Section 13.1 and (ii) such cure removes any adverse effect on Seller of such fact, circumstance or condition being otherwise than as represented.

#### 12.4 Damages Prior to Termination.

Subject to Section 12.8, for all breaches or Events of Default (other than those in respect of any delay of the Commercial Operation Date and any Output Shortfall, for which Sections 4.10 and 7.2 of this 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 pursuant to Section 12.1(H) or Section 12.1(I), 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 Total Replacement Costs or Resale Costs (if any) 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 pursuant to Section 12.1(H) or Section 12.1(I), neither Party shall have any liability arising out of such termination, without prejudice to Seller's obligation to pay Delay Liquidated Damages or [REDACTED] Liquidated Damages, 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 seek specific performance as a remedy for such breach.

12.7 [REDACTED].

[REDACTED]

12.8 Waiver and Exclusion of Other Damages.

(A) 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.

(B) PRIOR TO THE OCCURRENCE OF THE COMMERCIAL OPERATION DATE, SELLER'S AGGREGATE LIABILITY UNDER THIS REPA FOR DAMAGES IS LIMITED TO THE AMOUNT OF THE SELLER'S SECURITY FUND THEN REQUIRED BY SECTION 11.1, EXCEPT THAT SUCH LIMITATION WILL NOT APPLY TO THE EXTENT THAT SUCH DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT OF SELLER OR BY THE INTENTIONAL BREACH BY SELLER OF ITS OBLIGATIONS UNDER THIS REPA.

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] Liquidated Damages) 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, [REDACTED], 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 this 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. 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 Transmission Operator 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 Transmission Operator in the prescribed format.

#### 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. For audit and verification purposes, Seller will grant Purchaser read-only access to the SPP accounts for the SPP Node.

#### 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.

Subject to Section 3.1, Seller may change the information in Exhibit A; provided that Seller shall provide written notice to Purchaser of any such change. 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 B 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) 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 any event or condition that (i) is beyond the reasonable control of the affected Party, (ii) arises after the Effective Date and is not reasonably foreseeable on the Effective Date, (iii) is not attributable to the negligence or breach or failure of the affected Party to perform its obligations hereunder, and (iv) the affected Party has taken all reasonable precautions, care and alternative measures to avoid or mitigate the effects of such event or condition in accordance with Applicable Law and Good Utility Practices. So long as the requirements of the preceding sentence are met, events and conditions 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; vandalism or destruction by a third party of the Facility or equipment relating the

performance by the affected Party of its obligations under this REPA; 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); epidemics or pandemics (including COVID-19, but only to the extent the impact of such event related to COVID-19 was unknown as of the Effective Date or results from actions of a Governmental Authority taken after the Effective Date); the unavailability of transmission that prevents Seller from performing hereunder; and actions or inactions by any Governmental Authority taken after the Effective Date (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 due to 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 events or conditions attributable to normal wear and tear or flaws in the Facility, unless caused by an event or condition that would itself constitute Force Majeure; (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) a Party's inability to pay amounts due to the other Party under this REPA, unless such inability is caused by a Force Majeure event that disables physical or electronic facilities or prevents physical access to such facilities, in each case, necessary to transfer funds to the payee Party.

#### 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 claimed 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 State of Delaware. 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.

#### 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 State of Delaware 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 Purchaser 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]

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 obligations 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 administrative proceedings before utility regulatory commissions.

### 18.3 Environmental Reporting.

Seller shall disclose to Purchaser, to the extent permitted by Applicable Law and subject to the provisions of Section 20.15, 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.

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 that: (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 a Party hereunder; and (iv) before this 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, neither a merger of either Party with another Person nor any direct or indirect sale or transfer of membership or other interests in Seller shall qualify as an assignment or 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 a senior unsecured debt rating equivalent to or better than the senior unsecured debt rating of Purchaser (but in no event worse than an Acceptable Credit Rating), 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; or (iii) for collateral purposes to the Facility Financing Representative or any Facility Financier; provided that, in the cases of clauses (i) and (ii), such purchaser or Affiliate, as applicable, (x) complies with the requirements of Section 11.1, and (y) is a Qualified Operator or engages a Qualified Operator to operate and maintain the Facility.

19.2 Right of First Offer.

(A) 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 [REDACTED]

[REDACTED] Such notice shall contain a description of the price and other

material terms upon which Seller [REDACTED] desires to sell or transfer such interest. If Purchaser desires to enter into negotiations with Seller regarding the sale or transfer of the Facility [REDACTED], Purchaser shall notify Seller of such decision within fifteen (15) Days of receipt of Seller's notice. Upon Seller's receipt of such 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 terms of the sale or transfer of the Facility or the direct equity interests in Seller to Purchaser or any Affiliate of Purchaser. Seller will provide in a timely manner, information regarding the Facility [REDACTED] which is reasonable or customary to allow Purchaser to perform due diligence and to negotiate in good faith for the purchase of the Facility [REDACTED]

(B) In the event that Purchaser does not exercise its right to negotiate pursuant to Section 19.2(A), Seller must comply with Section 19.1 in any assignment of Seller's rights, interests or obligations herein to a purchaser of the Facility.

(C) In the event that Seller [REDACTED] does not consummate the sale or transfer of the Facility [REDACTED] to Purchaser in accordance with Section 19.2(A) 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 shall not sell or transfer all or any portion of the Facility [REDACTED] unless, prior to such sale or transfer or [REDACTED], it complies with the provisions of Section 19.2(A).

(D) The provisions of this Section 19.2 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]

[REDACTED] 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")) [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, environmental, 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 and subject to ARTICLE 17, 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"). Purchaser shall be responsible for ensuring that Purchaser Representatives comply with the provisions of this Section 19.3 and shall be responsible to Seller for any failure of any Purchaser Representative to comply with the provisions of this Section 19.3. 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. Seller may at any time designate a new representative upon written notice to Purchaser containing the name and phone number(s) of such new designated representative. 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)



[REDACTED]

(E) Purchase and Sale Agreement. Within sixty (60) Days of the later of (a) the end of the Due Diligence Period and (b) [REDACTED]

[REDACTED] 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 end of the tenth (10<sup>th</sup>) Contract Year or 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 promptly 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 [REDACTED] 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 efforts to obtain financing with respect to the Facility, Purchaser shall enter into a Consent and Agreement (with respect to any debt financing)

and one or more estoppels (with respect to any equity financing) and shall provide such other certifications, representations, information and other documents as may be reasonably requested by the Facility Financing Representative or Seller in connection with any such financing; provided that Purchaser shall have no obligation to enter into any agreement that materially 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 the reasonable third-party costs and expenses (including the reasonable fees and expenses of counsel) incurred by Purchaser in the preparation, negotiation, execution and delivery of the Consent and Agreement and other documents pursuant to this Section 19.4.

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 this REPA shall be null and void and shall constitute an Event of Default pursuant to ARTICLE 12.

ARTICLE 20  
MISCELLANEOUS

20.1 Waiver.

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 Effective Date 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.

Neither Party will seek (directly or indirectly), nor support any third party in seeking, to revise the terms, conditions, prices, fees, or rates specified in this REPA through application or complaint to the Federal Energy Regulatory Commission pursuant to Sections 205, 206 or 306 of the Federal Power Act or any other provisions of the Federal Power Act (if applicable).

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” application of the “just and reasonable” 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”).

#### 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.

#### 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 this 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; Jury Trial Waiver.

(A) 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.

(B) EACH PARTY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY

CLAIM, CAUSE OF ACTION, SUIT OR OTHER PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS REPA OR THE IMPLEMENTATION OF THIS REPA.

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, the Transmission Operator, Affiliates or any other Person (including contractors, subcontractors, consultants, accountants, financial advisors, experts, legal counsel, insurers, auditors 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.

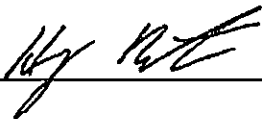
The Parties acknowledge and agree that this REPA and the transactions contemplated by this REPA constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

[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:

Rocking R Solar, LLC

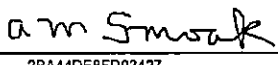
By: 

Name: Hy Martin

Title: Authorized Signatory

Purchaser:

Southwestern Electric Power Company

By: 

Name: Albert Smoak

Title: SWEPCO President and COO

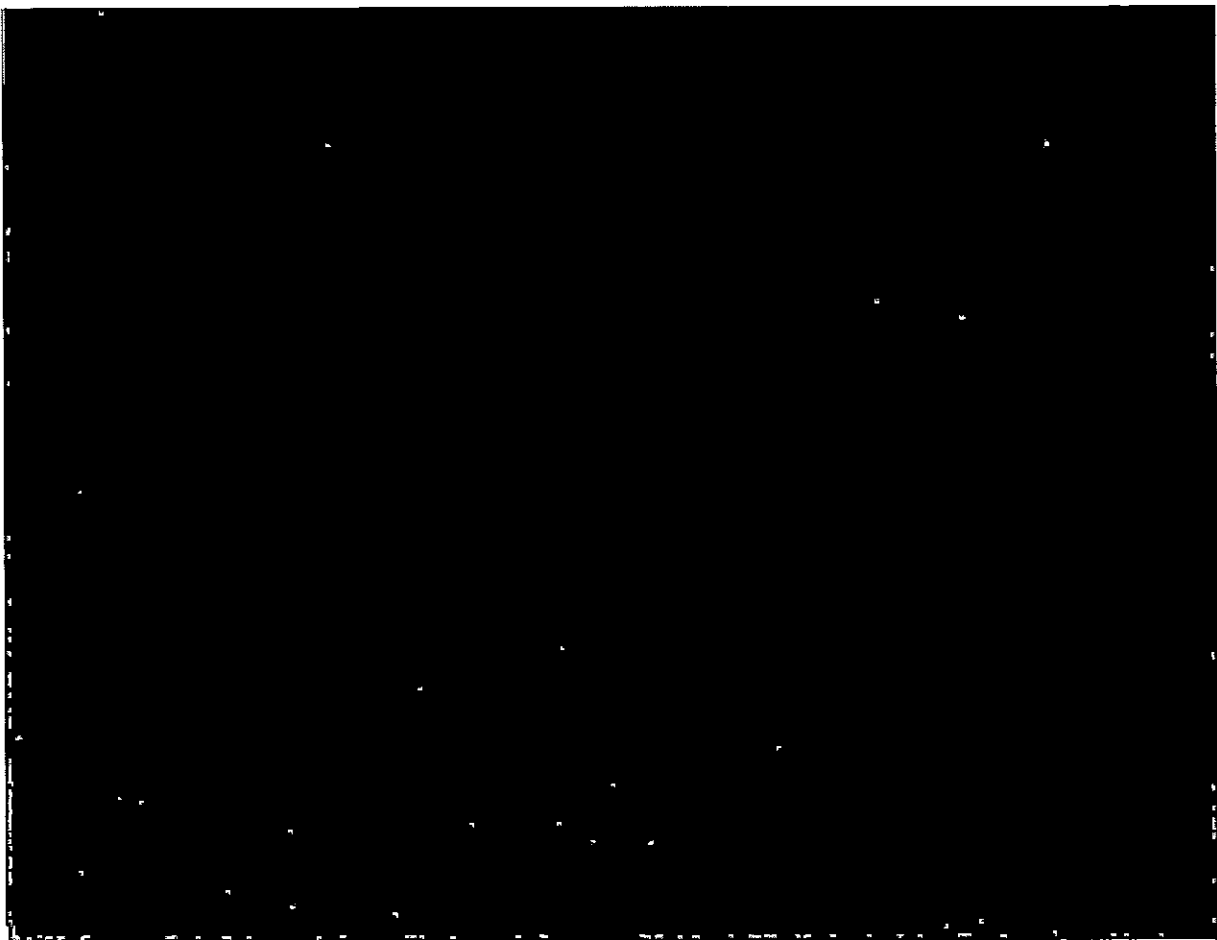
DS  
JJ

## EXHIBIT A

### FACILITY DESCRIPTION AND SITE MAP

#### Facility Description

The Facility is described as a PV system, comprised of Tier 1 PV arrays, inverters, and associated facilities and equipment. The Facility has an expected net nameplate capacity of approximately 72.5 megawatt (alternating current) as measured at the Point of Delivery, located in Caddo Parish at 6851 Hosston Vivian Rd, Hosston, LA 71043 [REDACTED] [REDACTED]).



**EXHIBIT B**  
**CONTRACT RATE**  
**(\$ Per MWh)**

The Contract Rate during the Delivery Period shall be an

[REDACTED]

[REDACTED]

## EXHIBIT C

## NOTICE ADDRESSES

Purchaser	Seller
<p><b>Invoices:</b> [REDACTED]</p> <p><b>Notices and Insurance (other than invoices):</b></p> <p>Southwestern Electric Power Company c/o American Electric Power Service Corporation 1 Riverside Plaza, 29th Floor Columbus, OH 43215 Attn: Commercial Operations</p> <p><u>with copies to:</u> American Electric Power Service Corporation 1 Riverside Plaza, 27th Floor Columbus, OH 43215 Attn: Credit Risk Management</p> <p><b>and</b> American Electric Power Service Corporation 1 Riverside Plaza, 29th Floor Columbus, OH 43215 Attn: Chief Counsel, CO&amp;L</p>	<p><b>Notices, Invoices and Insurance:</b></p> <p>Rocking R Solar, LLC 1166 Avenue of the Americas, Ninth Floor New York, NY 10036 c/o D. E. Shaw Renewable Investments Attn: [REDACTED] [REDACTED] Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED] [REDACTED]</p>
<p><b>Contract Administration Committee Representative:</b> [REDACTED] Phone: [REDACTED] [REDACTED]</p> <p><b>Alternate:</b> To be designated in writing by Purchaser at or prior to the first meeting of the Contract Administration Committee</p>	<p><b>Contract Administration:</b> Rocking R Solar, LLC 1166 Avenue of the Americas, Ninth Floor New York, NY 10036 c/o D. E. Shaw Renewable Investments Attn: [REDACTED] [REDACTED] Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED] [REDACTED]</p>

**EXHIBIT D****SPECIFICATION OF INSURANCE COVERAGE****(Refer to Article 16 Insurance for Additional Requirements)**

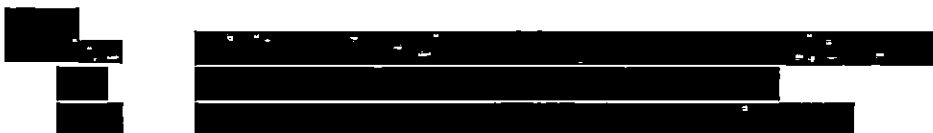
<u>Type of Insurance</u>	<u>Minimum Limits of Coverage</u>
Commercial General Liability (CGL)	<p>\$11,000,000 combined single limit per occurrence, which may be met by any combination of Primary and Excess/Umbrella coverages. If CGL insurance contains a general aggregate limit, it shall apply separately to the Facility.</p> <p>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.</p> <p>Purchaser shall be included as an additional 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.</p> <p>The CGL and commercial umbrella insurance to be obtained by or on behalf of Seller shall be endorsed as follows:</p> <p style="padding-left: 40px;">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.</p>
Business Automobile Liability	<p>\$1,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos</p> <p>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.</p>

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, subject to customary sub-limits.  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 "Sudden and Accidental"	\$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, subject to customary sub-limits. 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, subject to a commercially reasonable deductible or waiting period.  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.

## CALCULATION OF ANNUAL PERFORMANCE RATIO

- 1.) On an annual basis Seller shall calibrate and test (a) all Electric Metering Devices in accordance with Section 5.4 of this REPA and (b) all pyranometers using the National Renewable Energy Laboratory's (NREL) Broadband Outdoor Radiometer Calibration (BORCAL) procedures (or equivalent). Purchaser will be provided documentation of all testing and calibration results.
- 2.) At the end of the Contract Year, Seller shall log the total amount of Renewable Energy (kWh/yr) generated by the facility during the Contract Year.

[illegible]

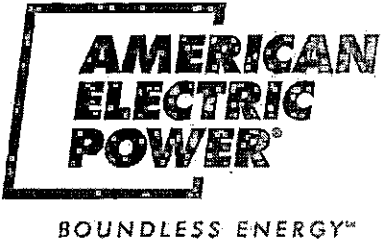


**EXHIBIT F**

**POINT OF DELIVERY**



EXHIBIT G



Revision History

Date	Version	Description	Author
4-30-2021	1.0	New document created for Solar PPA	CommOps, PSCO, Transmission Settlements

1

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]



G-5

## EXHIBIT H

## CALCULATION OF [REDACTED] LIQUIDATED DAMAGES

[REDACTED] Liquidated Damages for [REDACTED] shall be calculated as follows:

- a) The Guaranteed Availability (%) for the Facility during the [REDACTED]  
[REDACTED]
- b) The Actual Availability (%) for the Facility during the Calculation Period shall be the [REDACTED] the Calculation Period.
- c) The Expected Generation (MWh) for the Calculation Period shall be [REDACTED]  
[REDACTED]  
The Expected Generation calculation is as follows:

$$\frac{[REDACTED]}{[REDACTED]} = [REDACTED]$$

- d) The [REDACTED] for the Calculation Period shall be calculated as follows:

$$[REDACTED] \times [REDACTED] = [REDACTED]$$

- e) The Replacement Cost Rate (\$/MWh) for the Calculation Period shall be calculated as follows:

$$\frac{[REDACTED]}{[REDACTED]} = [REDACTED]$$

- o The [REDACTED] for the Calculation Period shall be [REDACTED]  
[REDACTED]  
[REDACTED]
- o The [REDACTED] for the Calculation Period shall be calculated by dividing the [REDACTED]  
[REDACTED]

[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]

o The [REDACTED]

1. [REDACTED]

[illegible]

**EXHIBIT I**

**FORM OF AVAILABILITY NOTICE**

**Solar Farm:**  
**Nameplate Rating (MWac):**  
**Date:**

Hour Ending	Availability, %	Availability, MW
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
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22		
23		
24		

**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**

Southwestern Electric Power Company  
c/o American Electric Power Service  
Corporation  
1 Riverside Plaza, 27th Floor  
Columbus, OH 43215  
Attn: Credit Risk Management

**APPLICANT**

[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:**

If the drawing is for less than the full amount available for drawing under the Letter of Credit, this original Letter of Credit and any amendments must be presented 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. Presentations for drawing may be delivered in person, by mail, by express courier delivery, or by facsimile to our fax no. 216-813-3719. In the event of a presentation via facsimile transmission, no mail confirmation is necessary, and the facsimile transmission will constitute the operative drawing documents.

This standby Letter of Credit is subject to the 1998 International Standby Practices, International Chamber of Commerce Publication No. 590 ("ISP98"). As to matters not addressed by the ISP98, this Letter of Credit is subject to and governed by the laws of the State of New York and applicable U.S. federal law.

This Letter of Credit is transferable in its entirety, but not in part, and may be successively transferred upon our receipt of the original Letter of Credit and any amendments thereto, accompanied by evidence satisfactory to the bank of the legal authority of the authorized signer and the original of our usual Transfer request form, which we will provide to you via facsimile per your written request to us indicating your facsimile telephone number. Transfer charges are for the account of the applicant. This Letter of Credit may not be transferred to any person with which U.S. persons are prohibited from doing business under U.S. foreign assets control regulations or other applicable U.S. laws and regulations.

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(D) 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.

SOUTHWESTERN ELECTRIC POWER COMPANY

By: \_\_\_\_\_

Name:

Title:

## EXHIBIT K

### FORM OF GUARANTY

This Guaranty Agreement (the "Guaranty") is made by \_\_\_\_\_ ("Guarantor"), a(n) \_\_\_\_\_ (state of formation) \_\_\_\_\_ (entity type: Corporation, LLC, LP, etc.), in favor of Southwestern Electric Power Company (the "Beneficiary").

WHEREAS, Beneficiary is or may become party to that certain Renewable Energy Purchase Agreement dated as of \_\_\_\_\_ by and between Rocking R Solar, LLC ("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. Guarantor's aggregate liability under this Guaranty shall not exceed (a) from the date hereof until the date that is ten (10) business days after Purchaser provides notice to Seller that it has satisfied the condition precedent set forth in Article 6(A) of the Agreement (or that such condition precedent has otherwise been deemed waived), \$3,625,000, and (b) thereafter, \$7,250,000.

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