

POWER PURCHASE AGREEMENT

BETWEEN

TENNESSEE VALLEY AUTHORITY

And

PROJECT, LLC

DRAFT

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THIS AGREEMENT, is made and entered into this [] day of MONTH, YEAR (“Effective Date”), by and between TENNESSEE VALLEY AUTHORITY, a corporate agency and instrumentality of the United States of America created by and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended, hereinafter called “TVA,” and PROJECT, LLC, a limited liability company duly organized, created, and existing under and by virtue of the laws of the State of STATE NAME, hereinafter called “Seller,” collectively “the Parties,” and each individually a “Party.”

RECITALS

WHEREAS, TVA is engaged in the generation, transmission, and supply of electric power and energy in the Tennessee Valley region;

WHEREAS, Seller is developing and will own and operate a solar photovoltaic electric generation facility known as PROJECT NAME, located in COUNTY, STATE (the “Project”) with a capacity as measured at the Delivery Point of up to TBD MW, to be interconnected at the INTERCONNECTION LOCATION;

WHEREAS, Seller desires to sell to TVA, and TVA desires to purchase from Seller, the entire amount of Energy Output and Other Project Attributes from the Project, subject to the terms and conditions herein;

NOW, THEREFORE, in consideration of the promises and the representations, warranties, covenants, and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I: DEFINITIONS

1.1 “Affiliate” means, with respect to any Person, any other Person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, “control” means

the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Alternative Compliance Payment” means the greater of 1.0¢/kWh or the amount designated under the terms of any applicable Renewable Energy Standard (“RES”) that an entity subject to such RES must pay in lieu of the transfer of RECs in order to comply with the RES requirements for a given RES compliance year.

1.3 “Ancillary Services” means those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of TVA’s transmission system in accordance with Good Utility Practice.

1.4 “Annual Supply Guarantee” has the meaning set forth in Exhibit B.

1.5 “Applicable Law” means all Federal, state, local, or municipal laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, licenses, permits, directives, and requirements of all regulatory, judicial, and other Governmental Authorities that legally apply in the particular situation in question.

1.6 “Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization, or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator, or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.7 “Base Price” for each Delivery Period has the meaning set forth in Section 4.6 and Exhibit A.

1.8 “Business Day” means any day except a Saturday, Sunday, or a Federal holiday observed by TVA. Such holidays currently are New Year’s Day, Martin Luther King, Jr. Day, Presidents Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. A Business Day shall begin at 8:00 a.m. and end at 5:00 p.m. CPT.

1.9 “Cash” means money denominated in United States Dollars.

1.10 “Claiming Party” has the meaning set forth in Section 16.1.

1.11 “Commercially Reasonable” means, with respect to any action required to be made, attempted, or taken by TVA or Seller under this Agreement, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such action, including the amount of notice of the need to take such action, the duration and type of action, the competitive environment in which such action occurs, and the risk to the

Party required to take such action. With respect to price or cost, Commercially Reasonable means the price or cost obtained or reasonably expected to be obtainable given good faith efforts in a competitive business environment. The price or cost obtained need not necessarily be the lowest or highest (as the case may be) price or cost available at the time so long as such price or cost can be demonstrated to have been reasonably obtained through good faith efforts in a competitive business environment. Commercially Reasonable efforts shall not generally require the payment of fees not otherwise contemplated under this Agreement nor the making of any material financial or other concessions as a condition to accomplishing the result contemplated.

1.12 “Continuous Reactive Power Support” or “CRPS” means the Ancillary Service described in, and provided by Seller to TVA in accordance with, Section 4.4 and 4.5.

1.13 “Contract Price” has the meaning set forth in Section 4.6 and Exhibit A.

1.14 “Contract Output” (CO) is specified in Exhibit G-1.

1.15 “Costs” means, with respect to the Non-Defaulting Party: (a) brokerage fees, commissions, financing breakage fees, and other similar third-party transaction costs (including any related make-whole costs for early prepayment provisions payable to lenders, tax equity investors and other financing parties), and necessary expenses incurred by such Party in a Commercially Reasonable manner (i) as a result of the termination of this Agreement, (ii) in entering into new arrangements that replace this Agreement, or (iii) TVA acquiring the Environmental Attributes and related RECs provided for in Section 4.2, plus (b) all expenses or liabilities incurred in a Commercially Reasonable manner by, or imposed upon or claimed against the Non-Defaulting Party, in connection with the termination of this Agreement pursuant to Article IX, or the specific Seller Event of Default described in Section 9.1.

1.16 “CPT” means Central Prevailing Time, meaning prevailing Standard Time or Daylight Saving Time in the Central Time Zone.

1.17 “CRPS Energy Requirements” means the amount of energy required by Seller in order to fulfill its conversion to CRPS obligations that arise under Section 4.5.

1.18 “CRPS Fixed Price” has the meaning set forth in Exhibit A.

1.19 “CSPP” means the simple average of the currently effective version of Part B Price Schedule for Hourly Deliveries of over 100,000 kWh set forth in the Dispersed Power Price Schedule CSPP of TVA’s periodically published “Dispersed Power Production Guidelines for TVA and distributors of TVA Power.”

1.20 “Curtailement” means any reduction in whole or in part of energy production at the Project to maintain transmission system reliability pursuant to the instruction or other directive made or issued by TVA, Distributor, or any Regional Transmission Organization, any other affected transmission service provider, or any other entity with authority to direct such a reduction of energy production.

1.21 “Defaulting Party” has the meaning set forth in Section 9.1.

1.22 “Deficient Energy” has the meaning set forth in Section 8.1.

1.23 “Delivery Period” means (a) in the case of the first such period (Year 1), the period commencing on the Initial Delivery Date and ending on the next December 31st that is at least 365 days later, (b) in the case of each such period subsequent to the first such period (but not including the last such period), each twelve (12) calendar months commencing on the January 1st next following the end of the prior period (each a “Full Contract Year”), and (c) in the case of the last such period during the Term, the period beginning on the January 1st next preceding the final anniversary of the Initial Delivery Date and ending on such final anniversary of the Initial Delivery Date.

1.24 “Delivery Point” is the point of transmission interconnection to the TVA system, as set forth in Exhibit G-1 [, or point of interconnection to the Distributor as long as the Distributor is a TVA customer.]

1.25 “Distributor” means the owner or operator of a Distributor’s System.

1.26 “Distributor’s System” means a system within the TVA Power Service Area connected to the TVA transmission system that transmits or distributes electric energy and includes any structures, equipment, or other items used for that purpose.

1.27 “Downgrade Event” means a reduction in the credit rating of a Qualified Bank.

1.28 “Early Termination Date” has the meaning set forth in Section 9.3.

1.29 “Effective Date” has the meaning set forth in the first paragraph of this Agreement.

1.30 “Electric System” means the network of electric transmission or distribution facilities, equipment, and other devices owned and/or controlled by TVA or the Distributor to which the Project interconnects.

1.31 “Energy Output” means the amount of energy, generated by the Solar Asset and delivered to the Delivery Point from and after the Test Commencement Date, as metered by the Metering Equipment, net of parasitic or auxiliary load, and shall not exceed the Contract Output over any applicable metering interval.

1.32 “EPO Assets” has the meaning set forth in Section 3.3.

1.33 “EPO Purchase Price” has the meaning set forth in Section 3.3.

1.34 “Environmental Attributes” means any and all credits, benefits, emissions reductions, environmental air quality credits, emission reduction credits, Renewable Energy Credits, certificates, offsets, and allowances attributable to a renewable energy resource, or otherwise attributable to the generation, purchase, sale, or use of electric energy from a renewable energy resource during the Term, without regard to the name given to such Environmental Attributes, which Environmental Attributes result from the avoidance, reduction, displacement, or offset of the emission of any gas, chemical, or other substance, including any of

the same arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, or carbon, with particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (UNFCCC) or the Kyoto Protocol to the UNFCCC, or its successor, or crediting “early action” emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the United States Environmental Protection Agency (EPA), or any Governmental Authority with jurisdiction over a program involving identification or transferability of Environmental Attributes, and any Renewable Energy Credit reporting rights under Section 1605(b) of the Energy Policy Act of 1992, or any other present or future reporting and compliance rights under a state, federal, or supranational program, to such Environmental Attributes. Environmental Attributes do not include, (i) Federal or state production tax credits; (ii) any investment tax credits or other tax credits associated with the construction or ownership of the Project; or (iii) any state, Federal, or private cash payments or grants relating in any way to the construction or ownership of the Project; or (iv) any adverse wildlife or environmental impacts.

1.35 “Event of Default” has the meaning set forth in Section 9.1.

1.36 “Excused Hours” (EH) has the meaning set forth in Section 8.2.

1.37 “Expected Initial Delivery Date” has the meaning set forth in Exhibit G-1.

1.38 “Extended Outage Period” has the meaning set forth in Section 6.3.

1.39 “Final Determination” means the final determination of an appraiser in accordance with, and with reference to, the EPO Purchase Price in Section 3.3, or the Purchase Price in Section 7.2, as applicable.

1.40 “Financing Party” a party with whom Seller enters into a financing transaction.

1.41 “Force Majeure Event” means the following or similar (in nature and severity) event(s): act of God, act of civil or military authority, war, terrorist attacks, riot, insurrection, unusually severe weather, blockades, embargoes, sabotage, PV Trade Measure Event(s), pandemics, or epidemics, in any of the foregoing cases, which: (i) are outside the control and without fault or negligence of a Party claiming that such event has occurred, and (ii) directly and actually cause delay(s) in or prevent a Party’s performance or completion of critical work. Notwithstanding anything herein to the contrary, (i) a lack of or reduction in the amount of sunshine, (ii) economic hardship, (iii) any failure to secure or maintain permits, except to the extent caused by a separate Force Majeure Event, and (iv) inability to obtain or maintain any expected tax benefits are not (separately or together) Force Majeure Event(s).

1.42 “Forced Project Outage” means any reduction or cessation of energy generation by the Project involving the shutdown of, and physical unavailability of generation from, Project facilities caused by any condition at the Project (as opposed to a Curtailment), other than Project Maintenance or Force Majeure Event(s).

1.43 “Full Contract Year” has the meaning set forth in the definition of “Delivery Period.”

1.44 “Gains” means with respect to a Non-Defaulting Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), that directly results from the termination of this Agreement for the remaining term of this Agreement, determined in a Commercially Reasonable manner. Factors used in determining economic benefit may include reference to information either available to it internally or supplied by one or more non-Affiliate third parties, including quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads, or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, or settlement prices for comparable transactions at liquid trading hubs in the relevant markets, all of which should be calculated for the remaining term of this Agreement and include the value of Environmental Attributes.

1.45 “Good Utility Practice” means any of the practices, methods, and acts engaged in or adopted by a significant portion of the electric utility industry during the relevant time period, or practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to any particular set of optimum practices, methods, or acts to the exclusion of all others, but rather is intended to include a spectrum of acceptable practices, methods, or acts generally accepted in the electric utility industry.

1.46 “Governmental Authority” means any nation, government, state, or other political subdivision thereof, whether foreign or domestic, including any municipality, township, and county, and any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including any corporation, or any entity owned or controlled by any of the foregoing. The term “Governmental Authority” shall not include TVA when acting in a non-governmental capacity.

1.47 “Governmental Charges” has the meaning set forth in Section 14.2.

1.48 “Initial Delivery Date” or “IDD” means the first day following TVA’s approval of notice from Seller that (i) all actions by Seller necessary to construct and operate the Project and generate the Contract Output have been taken; (ii) the Project is fully interconnected, integrated, and synchronized with the TVA transmission system in compliance with the terms of the Interconnection Agreement, and is capable of charging, storing, and discharging Energy Output to the Delivery Point in a consistent, safe, and reliable manner; (iii) Seller is able to respond to Charging Directives; and (iv) all requirements under the Interconnection Agreement have been timely satisfied; provided that such date shall be no earlier than the Expected Initial Delivery Date and, subject to Section 3.4, no later than twelve (12) Months after the Expected Initial Delivery Date.

1.49 “Initial Delivery Date Damages” means liquidated damages in the amount of \$275 per day multiplied by the Contract Output of the Project in MW.

1.50 “Interconnection Agreement” means an agreement entered into between Seller and either TVA or the Distributor to provide for the interconnection of the Project to TVA’s or the Distributor’s electric system, as the case may be.

1.51 “Interconnection Direct Assignment Cost Adjuster” or “IDA Cost Adjuster” has the meaning set forth in Exhibit K.

1.52 “Interest Rate” means, the per annum rate of interest due under the Prompt Payment Act, 31 U.S.C. §§ 3901-3907.

1.53 “kW” means kilowatt or kilowatts, alternating current.

1.54 “kWh” means kilowatt-hour or kilowatt-hours.

1.55 “Letter of Credit” means an irrevocable standby letter of credit from a Qualified Bank in substantially the form attached hereto as Attachment 1 to Exhibit D, naming TVA as the beneficiary.

1.56 “Losses” means with respect to a Non-Defaulting Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs) resulting from the termination of this Agreement for the remaining term of this Agreement, determined in a Commercially Reasonable manner. Factors used in determining the loss of economic benefit may include reference to information either available to it internally or supplied by one or more non-Affiliate third parties including quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads, or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, or settlement prices for comparable transactions at liquid trading hubs in the relevant markets, all of which should be calculated for the remaining term of this Agreement and include the value of Environmental Attributes. If Seller (or Seller’s owners or Affiliates, if Seller is a pass-through entity for tax purposes) loses or is required to recapture any tax benefits with respect to the Project because of a breach by TVA, Losses shall include, calculated on an after-tax basis, the amount of such lost or recaptured tax benefits.

1.57 “Material Credit Event” means any event that results in Seller’s failure to meet the Performance Assurance Requirements. If Seller has provided or caused to be provided a Letter of Credit in satisfaction of its Performance Assurance Requirements, then any of the following shall be deemed to be a Material Credit Event: (a) a representation or warranty made by a Qualified Bank is false or misleading in any material respect at any point during the term of this Agreement with regard to the Qualified Bank’s; (b) the failure of an obligation in any Letter of Credit made in connection with this Agreement and such failure is not remedied within ten (10) calendar days after written notice; (c) a Downgrade Event has occurred; (d) a Qualified Bank becomes Bankrupt or its ownership or control is assumed by the Federal Deposit Insurance Corporation; (e) the failure of the Letter of Credit to be in full force and effect or extended for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all of Seller’s obligations under this Agreement without TVA’s written consent; or (f) the

Qualified Bank repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of, its Letter or Credit.

1.58 “Metering Equipment” has the meaning set forth in Section 5.1.

1.59 “Minimum Capacity Factor” (MCF) has the meaning set forth in Exhibit B.

1.60 “Month” means a calendar month commencing at 00:00 CPT on the first calendar day of such month and ending at 24:00 CPT on the last calendar day of such month.

1.61 “Moody’s” means Moody’s Investors Service, Inc. or its successor.

1.62 “MVAR” means megavolt-ampere reactive.

1.63 “MW” means megawatt or megawatts, alternating current.

1.64 “MWh” means megawatt-hour or megawatt-hours.

1.65 “Non-Defaulting Party” has the meaning set forth in Section 9.3.

1.66 “Notice to Proceed” or “NTP” means the written notice issued by TVA to Seller after Seller has (i) submitted a NTP Request to TVA, and (ii) successfully demonstrated compliance with the criteria required under the NTP Request.

1.67 “NTP Deadline” has the meaning set forth in Exhibit G-1.

1.68 “NTP Deadline Damages” means liquidated damages of \$50 for each kW of Contract Output.

1.69 “NTP Request” means a submission by Seller, together with all necessary materials and documentation, that show compliance with Seller’s Conditions under Article III, by which Seller requests that TVA issue a Notice to Proceed.

1.70 “Option Price” has the meaning set forth in Section 7.1.

1.71 “Other Project Attributes” means, collectively, all applicable Environmental Attributes, Capacity Attributes, and Ancillary Services.

1.72 “Parallel Operation Agreement” means a separate agreement entered into between Seller, TVA, and Distributor to establish the terms and conditions under which TVA and Distributor will allow the interconnected operation of the Project with Distributor’s distribution system and TVA’s transmission system.

1.73 “Parties” means both TVA and Seller.

1.74 “Party” means either TVA or Seller, as applicable.

1.75 “Performance Assurance” means collateral in the form of Cash or Letter(s) of Credit from Qualified Bank(s), in the amounts indicated in Exhibit D, which shall secure Seller’s payment obligations under this Agreement.

1.76 “Performance Assurance Requirements” means Seller’s provision and maintenance of the applicable Performance Assurance, or causing such Performance Assurance to be provided and maintained.

1.77 “Permit” means any permit, exemption, approval, license, consent, certification, authorization, concession, order, easement, or other right that is required by any applicable Governmental Authority to develop, construct, finance, operate, or maintain the Project or interconnection facilities or to generate or sell the Project electric output.

1.78 “Person” means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of legal entity.

1.79 “Product” means, on and after the Initial Delivery Date, any and all Energy Output, Capacity Attributes, Ancillary Services, and Environmental Attributes.

1.80 “Project” means the Solar Asset and all related equipment, structures, electrical lines, and other facilities installed at the Site on Seller’s side of the point of interconnection under the Interconnection Agreement that is used for the production, control, delivery, or monitoring of electric energy described in Exhibit G-1.

1.81 “Production Tax Credit” or “PTC” means the tax credits applicable to electricity produced from certain renewable resources pursuant to Section 45 or Section 45Y of the Internal Revenue Code of 1986 (as may be amended, supplemented or replaced (in whole or in part) from time to time), measured in US dollars.

1.82 “Project Maintenance” means Seller’s planned partial or complete reduction of the Project’s generating capability for routine maintenance purposes.

1.83 “Proper Invoice” means a numbered and dated invoice with a detailed accounting of the amounts of any and all Energy Output delivered and a statement as to the quantity of CRPS provided during the invoice period (if any), which states this TVA contract number, purchase order number, and contains the Contract Price for the Energy Output or Test Energy Price for Energy Output from the Project (as applicable), the CRPS Fixed Price (if CRPS was provided), and a brief statement of payment terms, consistent with this Agreement, and other details and supporting documentation, as required by this Agreement.

1.84 “Purchase Price” has the meaning set forth in Section 7.2.

1.85 “PV Trade Measure Event” means any final, unappealable ruling, rulemaking, or decision issued after the Effective Date of this Agreement by a Governmental Authority with jurisdiction over a Party that either (a) prohibits the importation of photovoltaic cells or modules into the United States, or (b) renders the usage of imported photovoltaic cells or modules illegal.

1.86 “Real Property Agreement” means a separate lease, contract, agreement, or option for any of the foregoing, together with any amendment, modification, replacement, or termination thereof, regarding the Site and Seller’s rights thereto, including but not limited to documents relating to timbering, farming, hunting, or other land uses on or affecting the Site.

1.87 “Regional Transmission Organization” means a large-scale electric transmission system operator that satisfies the definition in 18 C.F.R. § 35.34(b)(1).

1.88 “Required Creditworthiness” means a Person that either (i) (1) has a credit rating of “BBB-” or higher by S&P and “Baa3” or higher by Moody’s, or (2) a tangible net worth of at least \$500,000,000; or (ii) is a first tier or second tier subsidiary of a parent with (1) a credit rating of “BBB+” or higher by S&P and “Baa1” or higher by Moody’s, or (2) a tangible net worth of at least \$500,000,000.

1.89 “Required Ownership Experience” means a Person has (or it and its Affiliates have on an aggregate basis) for a period of at least three (3) consecutive years owned and operated in the United States utility-scale solar power generation projects with (x) at least five hundred (500) MW of solar power generation capacity, or (y) power generation facilities with an aggregate electricity output of at least one thousand (1,000) MW of aggregate electric generation capacity (with at least two hundred fifty (250) MW of solar power generation assets), in each case where such MW owned by such Person and its Affiliates shall be determined on a net ownership basis taking into account such Person’s and its Affiliates’ cumulative percentage interest in a project.

1.90 “Qualified Bank” means a U.S. commercial bank or a U.S. branch of a foreign bank, with such bank having a credit rating on its senior unsecured debt of (a)(1) “A2” or higher from Moody’s or (2) “A” or higher from S&P, or (b) if rated by both Moody’s and S&P, both (a)(1) and (a)(2).

1.91 “Reliability Coordinator” means, as defined by the North American Reliability Council, the entity that is the highest level of authority responsible for the reliable operation of the bulk electric system where the Project is located or where Energy Output is being transmitted or scheduled, has the wide area view of the bulk electric system, and has the operating tools, processes, and procedures, including the authority, to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations.

1.92 “Renewable Energy Credit” or “Renewable Energy Certificate” or “REC” means a fungible commodity that is created when one megawatt hour (MWh) of energy is created from a renewable energy resource.

1.93 “Renewable Energy Standard” or “RES” means an Applicable Law that requires TVA or distributors of TVA power to achieve a percentage of annual electric power sales through production or purchase of specified renewable energy sources and/or through the acquisition of RECs or payment in lieu of the acquisition of RECs.

1.94 “Seller’s Conditions” has the meaning set forth in Section 3.2.

1.95 “Settlement Amount” has the meaning set forth in Section 9.3.

1.96 “Site” means the land on which the Project is located, as more specifically described in Exhibit G-2.

1.97 “Solar Asset” means the photovoltaic solar generating facility to be located at the Site with a total installed capacity, as further described in Exhibit G-1.

1.98 “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.99 “Term” has the meaning set forth in Article II.

1.100 “Termination IDD Damages” means liquidated damages in the amount of \$100 multiplied by the Contract Output in kW.

1.101 “Termination Payment” has the meaning set forth in Section 9.3.

1.102 “Test Commencement Date” means the date prior to the Expected Initial Delivery Date upon which the Project has been interconnected to TVA’s or the Distributor’s electric system and is permitted to test the Project.

1.103 “Test Energy” means Energy Output that is delivered to the Delivery Point prior to the Initial Delivery Date.

1.104 “Test Energy Price” shall be set forth in a test power agreement to be executed between the Parties.

1.105 “TVA Power Service Area” means the area served at retail by either TVA or Distributors of TVA power in conformity with section 15d(a) of the TVA Act, as amended, 16 U.S.C. § 831n-4(a).

ARTICLE II: TERM

This Agreement shall become effective as of the Effective Date and, unless otherwise terminated or extended in accordance with the provisions of this Agreement, shall remain in full force and effect until 24:00 CPT on the **twentieth (20th)[15 or 20 year]** anniversary of the Initial Delivery Date.

ARTICLE III: PROJECT MILESTONES, PRE-CONSTRUCTION ACTIVITIES, NOTICE TO PROCEED, AND INITIAL DELIVERY DATE

Section 3.1 Project Milestones and Start of Construction.

(a) The Project Development Milestone Schedule, attached to this Agreement as Exhibit H, sets forth a detailed development plan for the Project, outlining each significant

activity in the Project development process and providing a projected completion date for each step in the Project schedule. Throughout the development of the Project, Seller shall provide TVA, on or before the tenth (10th) day of each Month, written updates of progress made toward completion of the milestones set forth in Exhibit H. The information provided shall be in a format designated by TVA. Unless otherwise specified by TVA, each monthly report must include a schedule update reporting current Project details as available including but not limited to all developments and impacts relating to real estate, permitting, engineering, deliveries, construction, and contract performance, along with mitigation and action plans for making up any delays, and good-faith estimates of the percentage of Project expenditures attributable to various supply diversification categories, including materials and labor sourced (i) as U.S. domestic content, (ii) within the TVA Power Service Area, or from (iii) minority-owned, woman-owned, veteran-owned, or small business interests, and other categories that TVA may identify. Seller shall provide TVA with Site access for reasonable review of Seller's construction and site preparation activities.

(b) TVA will not be responsible under this Agreement for any costs or expenses (including overheads and administrative costs) or risks incurred in connection with the design, construction, installation, operation, or maintenance of any interconnection facilities up to the Delivery Point. Upon written request by TVA, Seller shall provide to TVA copies of any or all construction contracts, procurement agreements, and reports submitted to the Project Lender relating to status, progress, and development of the Project to ensure compliance with the Project Development Milestone Schedule. All construction contracts, procurement agreements, and Project Lender reports provided shall be deemed confidential subject to section 17.19. Seller is responsible for determining interconnection rules, practices, and policies with which it must comply and for coordination with any other Person in connection with the interconnection process.

(c) Within thirty (30) days of the later of the Effective Date or execution of the same, Seller shall provide a copy to TVA of any Real Property Agreement.

(d) Within thirty (30) days of the Effective Date, Seller shall deliver to TVA for TVA's signature an agreement signed by Seller and an environmental consultant regarding the completion of certain actions necessary to meet the requirements of Applicable Law relating to environmental and cultural resources. The consultant and the form of the agreement must be reasonably acceptable to TVA. TVA shall be entitled to collect from Seller liquidated damages of \$40 for each MW of Contract Output multiplied by the number of days by which Seller fails to meet the requirements of this Section 3.1(d).

(e) Seller shall ensure that no construction activities are initiated at the Site, whether by Seller, an owner of the Site, or others, until TVA has provided written notice that TVA's environmental reviews have been satisfactorily completed pursuant to Section 3.2(e) below. Until such approval, Seller shall ensure that the Site remains in substantially the same condition as of December 8, 2022 [[the date of submission to the RFP](#)]. This means, among other things, that no ground-disturbing activities (including tree clearing, earth moving, grading, or excavating) may take place at the Site prior to TVA's determination that its environmental reviews have been satisfactorily completed. Seller's failure to comply with this paragraph may,

in TVA's reasonable discretion, cause that portion of the Project site to which such failure relates to be excluded from the Project.

(f) To support the TVA Biodiversity Policy and Strategic Intent Guiding Principles for Carbon Reduction, Seller will provide a point of contact and engage with TVA Environment staff during the environmental review period and cooperate as needed during the Term to facilitate opportunities related to carbon sequestration and/or species conservation on the Project site.

Section 3.2 NTP Request and Notice to Proceed. Upon Seller's reasonable belief that the conditions set forth below ("Seller's Conditions"), have been satisfied in full, Seller shall submit a NTP Request to TVA that incorporates all necessary documentation and materials that demonstrate completion of Seller's Conditions listed in subsection 3.2(a) below.

(a) Seller's Conditions are:

(1) Demonstration to TVA's reasonable satisfaction of external or internal construction financing arrangements or, if applicable, application therefor.

(2) Execution of an Engineering and Procurement Agreement ("E&P Agreement") with TVA under which Seller and TVA will cooperate, at Seller's expense, in the installation or modification of certain facilities necessary for the Project to interconnect with TVA.

(3) Execution of a facilities study agreement with TVA (the "Facilities Study Agreement").

(4) Satisfactory completion, in compliance with both the E&P Agreement and the deliverables schedule incorporated as an exhibit in the Facilities Study Agreement, of the requisite design activities at time of Seller's NTP Request.

(5) Completion, to TVA's satisfaction, of a solar resource assessment indicating adequate solar resources for the production of the Annual Supply Guarantee.

(6) TVA's determination, at its sole discretion, that the required environmental reviews have been satisfactorily completed. Such determination shall consider (i) the consistency of the Project with environmental analyses performed for and contained in TVA's environmental review, and (ii) Applicable Law, including laws protecting cultural, historic, archaeological, biological, and other environmental resources. TVA will not determine that environmental reviews have been satisfactorily completed if the location, operation, maintenance of the Project or any associated facilities will result in unacceptable impacts inconsistent with Applicable Law. TVA, or a TVA-approved third party, shall perform such environmental reviews at Seller's sole expense.

(7) Seller's submission of additional Performance Assurance for the NTP Request as required by Exhibit D

(8) To the extent required by TVA prior to Seller's request of NTP, execution of any necessary station service agreements and/or other necessary documentation between Seller and either TVA or Distributor, as applicable.

(b) TVA shall issue Notice to Proceed upon satisfaction of Seller's Conditions under Section 3.2(a), and may condition the issuance of Notice to Proceed on any or all of the following, which will be continuing obligations of Seller.

(1) Seller's implementation of environmental and cultural protection measures identified in TVA's environmental review.

(2) Full execution, within the time specified by TVA, of the Interconnection Agreement, a test power agreement with TVA, and/or any other necessary agreements between Seller and either TVA or Distributor, as applicable (e.g., a parallel operation agreement).

(3) Seller's provision, within the time specified by TVA, of any other necessary documentation, as applicable, to address metering, operation, maintenance, or other related matters.

(c) Seller shall complete all Seller's Conditions and deliver a NTP Request to TVA on or before the NTP Deadline; provided, however, that:

(1) TVA may, in its sole discretion, extend the NTP Deadline if Seller provides a written extension request to TVA no later than twenty (20) Business Days prior to the NTP Deadline. Such written request must state (i) that Seller reasonably believes it will not be able to satisfactorily complete all of the Seller's Conditions by the NTP Deadline, (ii) the reasons why Seller is unable to complete the Seller's Conditions by the NTP Deadline, (iii) that Seller desires to continue its performance under the Agreement, and (iv) the extension period requested by Seller, which period may be no more than one hundred and eighty (180) days. TVA will respond to Seller's request in writing setting forth TVA's determination with regard to Seller's request. If TVA elects to extend the NTP Deadline, the extended NTP Deadline stated in TVA's response will become the new NTP Deadline without the need for an amendment to this Agreement.

(2) TVA will extend the NTP Deadline if and to the extent (on a day-for-day basis) that Seller can demonstrate that Seller's failure to satisfy Seller's Conditions on or before the NTP Deadline were primarily caused by TVA's failure to take actions prerequisite to Seller's satisfaction of the Seller's Conditions.

Delay or failure in the submittal by or on behalf of Seller of any item that Seller must submit that is necessary for TVA to complete its review does not constitute a TVA failure, and does not state a basis upon which TVA will grant an extension (as described in this paragraph).

(d) Upon receipt of the NTP Request, TVA shall review Seller's submissions for adequacy. If TVA deems the NTP Request to be satisfactory, TVA shall issue to Seller a Notice to Proceed. If TVA reasonably determines that the NTP Request is unsatisfactory, TVA may, in

its sole discretion, exercise any or all of its remedies stated in Section 3.3. Upon any such exercise, Seller will have no further recourse against TVA; so long as:

(1) TVA has provided Seller with written notice of its finding prior to exercising any or all remedies stated in Section 3.3, and

(2) Seller has failed to submit a satisfactory NTP Request by the later of (i) sixty (60) days after receipt of written notice from TVA and (ii) the NTP Deadline.

Section 3.3 NTP Remedies. If Seller fails to comply with any of its obligations under Section 3.2, then TVA may, in its sole discretion, exercise one or more of the following cumulative remedies:

(a) Collect from Seller the NTP Deadline Damages; provided that TVA shall promptly reimburse NTP Deadline Damages to Seller if Seller subsequently achieves the Initial Delivery Date for the entire Contract Output by the Expected Initial Delivery Date.

(b) Terminate this Agreement. If Seller fails to submit a satisfactory NTP Request within thirty (30) days of TVA's exercise of the remedy in Section 3.3(a), then TVA may terminate this Agreement. In the event of such termination, neither Party shall have any further recourse to the other Party solely as a result of any such termination. Upon termination, TVA may acquire the Project or direct Seller to sell and assign the Project to a third-party designated in writing by TVA. A sale of the Project pursuant to this Section will include all associated real, personal, and intangible rights or property held by Seller or its Affiliates (including any safe-harbored equipment, interconnection rights and permits) (the "EPO Assets") and will be at fair market value, which means, for purposes of this Section, the purchase price that would be paid for such EPO Assets in an arm's-length transaction between the Parties or between a Party and a third party ("EPO Purchase Price"), which will be established as follows:

(i) TVA and Seller shall either (1) mutually agree upon the EPO Purchase Price for the EPO Assets, or (2) obtain an independent appraisal. No more than ten (10) days following agreement to obtain an independent appraisal, the Parties shall agree upon an independent appraiser to determine the EPO Purchase Price for the EPO Assets. If the Parties are not able to mutually agree upon an independent appraiser, then each Party shall select an appraiser who has experience in the valuation of the EPO Assets, and the appraisers so selected shall confer and jointly select a similarly qualified independent appraiser, who shall be the independent appraiser to determine the EPO Purchase Price.

(ii) The independent appraiser shall provide a preliminary determination of the EPO Purchase Price to Seller and TVA, together with the supporting documentation and analysis. Either Seller or TVA may object in writing to the preliminary determination within twenty (20) days after receiving it. Within ten (10) Business Days after (1) receiving any such objection or (2) receiving no such objection, the independent appraiser shall issue a final determination of the EPO Purchase Price ("Final Determination") to Seller and TVA, which shall specifically address the substance of any

objections raised by either Party and how such objections were taken into account in making the Final Determination.

If TVA decides to exercise this early purchase option either for itself or for the benefit of a third-party designated by TVA, it must provide written notice to Seller of its intent to exercise the option within twenty (20) Business Days after either (y) the date of the Final Determination, or (z) if Seller and TVA have mutually agreed upon a EPO Purchase Price, the date that the Parties agree upon an EPO Purchase Price. If TVA acquires the Project for itself pursuant to this Section, it may thereafter assign the Project to a third party in its sole discretion.

(c) Notwithstanding the foregoing, if Seller fails to achieve NTP due solely to a TVA determination under Section 3.2(e) that environmental reviews have not been satisfactorily completed and such determination was not due to Seller fault, then TVA will terminate this Agreement under Section 3.2(b) without exercising the purchase option described therein and, in TVA's sole discretion, the NTP Deadline Damages due from Seller will be reduced by 75%.

(d) This Section 3.3 sets forth TVA's exclusive remedies for a failure by Seller to comply with its obligations under Section 3.2 and in no event will Seller's monetary liability for a failure to achieve NTP in accordance with Section 3.2 exceed the NTP Deadline Damages.

Section 3.4 Failure to Meet the Expected Initial Delivery Date.

(a) If Seller achieves NTP (either by the NTP Deadline or otherwise) but fails to achieve the Initial Delivery Date by the Expected Initial Delivery Date, then Seller shall pay TVA, as liquidated damages, Initial Delivery Date Damages for each day thereafter until Seller achieves the Initial Delivery Date. If Seller fails to achieve the Initial Delivery Date by twelve (12) Months after the Expected Initial Delivery Date, then TVA may, in its sole discretion, terminate this Agreement. If TVA has not exercised such termination right within twenty-four (24) Months after the Expected Initial Delivery Date and if TVA has received Initial Delivery Date Damages in an amount not less than the required Performance Assurance as of that date, then Seller may terminate this Agreement. Upon termination by either Party pursuant to this Section 3.4(a), TVA may, in its sole discretion, exercise the early purchase option as set forth in Section 3.3(ii). Termination will otherwise be with no further recourse by either Party, except for any amounts, including Initial Delivery Date Damages and other liquidated damages, owed by Seller to TVA as of the date of termination. This Section 3.4(a) sets forth TVA's exclusive remedies arising solely from a failure of Seller to achieve the Initial Delivery Date in accordance with the requirements of this Section.

(b) If Seller's failure to achieve the Initial Delivery Date is caused primarily by TVA's failure to complete construction of interconnection facilities, other than a failure caused by a Force Majeure Event (in which case the provisions of Section 16.1 would apply), then Seller shall be entitled to a corresponding day-for-day extension of the Expected Initial Delivery Date.

Section 3.5 Adequate Assurances. If TVA has reasonable grounds for insecurity with respect to Seller's ability to perform or comply with this Agreement at any time prior to Seller

achieving the Initial Delivery Date, TVA may request, and Seller shall provide, adequate written assurance (in TVA's reasonable discretion) of such performance or compliance. Such written assurance must be provided within ten (10) Business Days of TVA's request. TVA shall notify Seller of its determination within ten (10) Business Days of TVA's receipt of Seller's written assurance. If TVA notifies Seller that such written assurance is not adequate, then Seller shall have the opportunity to provide further written assurance within five (5) Business Days of receipt of TVA's notice of inadequacy. If Seller fails to provide written assurance as required by this Section, then, after the applicable cure period in this Section, TVA may declare that such failure constitutes an Event of Default under Section 9.1(l), and may exercise any remedies available to it under Article IX.

Reasonable grounds for TVA insecurity are events, actions, or inactions that TVA believes, in good faith, may materially affect Seller's ability to achieve the Initial Delivery Date, including but not limited to: (i) material litigation involving Seller, (ii) Seller's inactivity in development or operation of the Project, (iii) Seller's inactivity in reconstruction or repair of the Project following damage to, or destruction of, the Project, (iv) Seller's failure to timely obtain necessary financing for the Project, (v) Seller informs TVA that a price increase is necessary in order for the Project, or any portion thereof, to be constructed or operated, or (vi) Seller experiences a material delay in starting or completing a project development milestone set forth in Exhibit H. This Section does not constitute a waiver of Seller's rights with regard to any Force Majeure Event.

Section 3.6 Forced Labor. In connection with this Agreement and the Project, Seller will comply, and will use Commercially Reasonable efforts to cause each of its subcontractors and vendors to comply, with the requirements of the Uyghur Forced Labor Prevention Act (2021), as amended, including all related Applicable Laws. Seller, or its vendors or suppliers, will ensure that all equipment purchased for use in the Project will clear United States Customs.

ARTICLE IV: ENERGY OUTPUT, OTHER PROJECT ATTRIBUTES, AND PRICING

Section 4.1 Energy Output. Commencing on the Test Commencement Date and continuing through the end of the Term, Seller shall sell and deliver to TVA, and TVA shall purchase and receive from Seller, any and all right, title, and interest in and to the Energy Output at the Delivery Point. Pursuant to Section 8.1, Seller shall guarantee the supply of a total amount of Energy Output to TVA during each Delivery Period. Energy Output shall be deemed made available to TVA for billing and payment purposes under Section 4.6, Article X, and Exhibit A in the Month in which Energy Output is made available at the Delivery Point.

Section 4.2 Environmental Attributes. In accordance with and subject to the terms and conditions of this Agreement, commencing on the Test Commencement Date and continuing through the end of the Term, TVA shall have any and all right, title, and interest in and to Environmental Attributes, as applicable, equal to the amount of Energy Output. Seller shall execute all necessary documentation, bear all cost, and take all other necessary action to register, receive, authenticate, attest, and transfer to TVA any and all RECs and other Environmental

Attributes as promptly as practicable; provided that issuance of RECs shall be in accordance with a tracking or certification system selected by TVA. In the event TVA requires “Green-e” certification associated with the Project, Seller will cooperate in all necessary actions to achieve such certification. RECs and other Environmental Attributes shall be for use and disposition as determined only by TVA or any entity to whom TVA may grant permission to market, transfer, or otherwise dispose of the RECs or other Environmental Attributes; and neither the Environmental Attributes nor the associated energy shall be claimed or otherwise referenced by Seller with respect to any RES, renewable energy goal, Federal, state, or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate, standard, or commitment. Seller agrees to be at all times fully compliant with the requirements of the Federal Trade Commission’s “Green Guides,” 77 Federal Register 62122, 16 Code of Federal Regulations, Part 260, in any communication concerning the Project, energy from the Project, or the RECs. TVA prohibits Seller from collecting for its benefit cryptocurrency based upon or relating to the renewable generation, such as “SolarCoin.” Representations by Seller or any other entity that imply use of, title to, or interest in the renewable energy are prohibited except as TVA may permit.

Section 4.3 Capacity Attributes. In accordance with and subject to the terms and conditions of this Agreement, commencing on the Initial Delivery Date and continuing through the end of the Term, Seller shall deliver to TVA, and TVA shall receive from Seller, any and all right, title, and interest in and to all Capacity Attributes available with respect to the Project.

Section 4.4 Ancillary Services. In accordance with and subject to the terms and conditions of this Agreement, commencing on the Initial Delivery Date and continuing through the end of the Term, Seller shall transfer to TVA, and TVA shall receive from Seller, any and all right, title, and interest in and to all Ancillary Services available with respect to the Project. Ancillary Services shall include the provision of primary frequency response with a maximum 5 percent droop and ± 0.036 Hz deadband. Except with regard to Continuous Reactive Power Support¹, Seller’s provision of Ancillary Services shall be at no additional cost to TVA.

Section 4.5 Continuous Reactive Power Support (CRPS).

(a) General. CRPS is a local grid voltage control service which the Project’s solar inverters can provide during periods when it is not generating power but is able to receive power from TVA. Subject to the terms of this Section, and Sections 4.6 and 10.1, below, TVA may request CRPS at any time during the Term, by providing Seller with written notice of TVA’s election not less than 90 days prior to the date that CRPS is to commence. TVA may elect to end Seller’s provision of CRPS by providing Seller with separate written notice not less than 30 days prior to the date that TVA chooses to end a CRPS period. Such notices from TVA to Seller to start or end provision of CRPS are “Conversion Notices”. Each Conversion Notice will be effective unless and until TVA modifies such Conversion Notice by providing Seller with an updated Conversion Notice. TVA may provide Conversion Notices by (in order or preference,

¹ TVA will only pay the CRPS Fixed Price for Projects that interconnect with a distributor. TVA will not pay the CRPS Fixed Price for projects that are directly interconnected with TVA. If project is interconnected to TVA transmission TVA will expect CRPS price to be captured with \$/MWh PPA Price unless parties agree to another arrangement.

unless the Parties agree to a different order) electronic mail, facsimile transmission, or telephonically to Seller's personnel designated in Section 17.8 to receive such communications. Notwithstanding the foregoing, TVA may at any time request Seller to suspend the provision of CRPS.

(b) Provision of CRPS. CRPS shall commence on the date stated in each Conversion Notice. The Seller shall ensure the maximum reactive power in MVAR required to be absorbed or injected at the Delivery Point corresponds to the sum of 30% of the Project's solar rating in MW. TVA shall have the right to perform, and Seller shall cooperate with regard to, a jointly-coordinated reactive power capability test of the CRPS from the Project's solar inverters upon the commencement of CRPS and annually thereafter.

(c) Additional CRPS Responsibilities.

(i) TVA Responsibilities. Except for any period that the Project is unavailable due to Project Maintenance or Forced Project Outages or as otherwise expressly set forth in this Agreement, for any period during which TVA elects for Seller to provide CRPS, TVA shall deliver all of the CRPS Energy Requirements to the Delivery Point for conversion by Seller into CRPS.

(ii) Seller's Responsibilities. Seller's obligation to deliver CRPS is contingent upon TVA supplying the CRPS Energy Requirements. If that contingency is satisfied, and upon receipt of a Conversion Notice, Seller shall take any and all action necessary to deliver the CRPS Energy Requirements from the Delivery Point to the Project for conversion into CRPS and to deliver the CRPS to the Delivery Point in accordance with the terms of this Agreement, including the maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the CRPS Energy Requirements to the Project and to deliver the CRPS to the Delivery Point. Seller shall secure the necessary station service from the [Distributor][applicable local power company] for any load not associated with the conversion of the CRPS Energy Requirements into CRPS.

(d) [See Footnote 1 for applicability: CRPS Billing and Payment. CRPS shall be deemed to be made available to TVA for billing and payment purposes under Article X in the Month in which the CRPS is made available at the Delivery Point. TVA has the right to verify, in its reasonable discretion, whether the quantity of CRPS stated on Seller's invoice is correct. TVA will not pay Seller for CRPS that TVA determines was not provided or which fails to comply with this Section and the applicable Conversion Notice.]

Section 4.6 Pricing.

(a) The Year 1 “Base Price” is set forth in Exhibit A. On January 1st of each subsequent Delivery Period, the Base Price for that Delivery Period escalates by 2% (rounded to the nearest cent) of the Base Price for the just-ended Delivery Period.

(b) The Contract Price for each hour of Energy Output and Other Project Attributes [(other than CRPS)] equals the sum of the Base Price for the applicable Delivery Period multiplied by the applicable seasonal time-of-day Price Ratio set forth in Exhibit A.

(c) [see Footnote 1 for applicability] The CRPS Fixed Price is set forth in Exhibit A. On January 1st of each subsequent Delivery Period, the CRPS Fixed Price for that Delivery Period escalates by 2% (rounded to the nearest cent) of the CRPS Fixed Price for the just-ended Delivery Period.]

(d) In consideration for the Product [(other than CRPS)], TVA shall pay Seller the applicable hourly Contract Price for each hour that Seller (a) provides Energy Output from the Project, or (b) is economically curtailed by TVA as described in Section 8.4.

(e) [see Footnote 1 for applicability] In consideration for CRPS, TVA shall pay Seller the CRPS Fixed Price for each hour that Seller (a) provides CRPS, or (b) is economically curtailed by TVA as described in Section 8.4.]

(f) In consideration of the Test Energy and associated Environmental Attributes, TVA shall pay Seller the applicable hourly Test Energy Price for each hour that the Project delivers Test Energy.

ARTICLE V: METERING AND ATTESTATION

Section 5.1 Metering Arrangements. Seller shall enter into separate contractual arrangements with TVA and/or the Distributor, as the case may be, for the installation, operation, maintenance, and reading of the metering and related facilities (“Metering Equipment”). The Metering Equipment shall be used to determine the amount of energy delivered to and purchased by TVA at the Delivery Point under this Agreement.

Section 5.2 Meter Testing. These separate arrangements shall provide for TVA or the Distributor, as the case may be, to make periodic tests and inspections of the Metering Equipment in order to maintain a high standard of accuracy. If tests show that the meter(s) are accurate within an acceptable threshold, fast or slow, as set forth under the separate arrangements, no adjustment shall be made to the payments submitted by TVA to Seller pursuant to Section 10.2. In case any tests show the meter(s) to exceed the acceptable threshold, fast or slow, adjustments shall be made to the payments submitted by TVA to Seller pursuant to Section 10.2 for any known or agreed upon period of inaccuracy; in the absence of any such knowledge or agreement, the adjustment shall be limited to one-half the period of time from the date of the

last previous test of the meter(s) and the most recent test, but in no event shall the period covered by the correction exceed one hundred eighty (180) days.

Section 5.3 Attestations. Upon TVA's request, Seller shall provide, at no cost to TVA, routine and non-routine attestations and other verifications of the delivery of any or all of the Energy Output and Other Project Attributes from the Project to demonstrate performance under this Agreement.

ARTICLE VI: MAINTENANCE AND OUTAGES

Section 6.1 Scheduled Outages. Seller shall provide, or cause to be provided, to TVA a schedule for Project Maintenance no later than thirty (30) calendar days before the Initial Delivery Date for the period from such date through the end of the first Delivery Period. Seller shall submit to TVA a schedule for Project Maintenance no later than each subsequent December 1st, applicable to the following calendar year. To the extent practicable, Project Maintenance will be scheduled during the Months of October, November, March, and April, or during non-daylight hours.

Section 6.2 Forced Project Outages. As soon as practicable after commencement of a Forced Project Outage, Seller shall provide TVA with notice and expected duration of such Forced Project Outage. Each such notice shall set forth, to the extent of Seller's knowledge and judgment, a detailed explanation for the cause of the Forced Project Outage, identification of the equipment impacted, the expected duration of the Forced Project Outage, and Seller's proposed course of action to remedy such event and prevent similar future events.

Section 6.3 Extended Outage. An "Extended Outage Period" occurs when, for each of any two (2) consecutive Delivery Periods, but in no event less than two (2) full calendar years, the Energy Output to the Delivery Point is less than the Minimum Capacity Factor from the Solar Asset, calculated as follows:

$$\text{MCF} \times \text{CO} \times \text{PH}$$

Where:

MCF = Minimum Capacity Factor

CO = Contract Output

PH = Possible Hours

TVA may terminate this Agreement by giving at least thirty (30) calendar days' advance written notice of such termination to Seller: (a) if one or more Force Majeure Events occurs and prevents Seller from generating at the Minimum Capacity Factor for an Extended Outage Period, and without liability to Seller except with respect to obligations or liabilities that arose prior to such termination, or (b) by declaring an Event of Default, if Seller causes a Forced Project Outage for an Extended Outage Period, after which, TVA may exercise any remedies available to it under Article IX, at law, or in equity. Notwithstanding anything to the contrary in this Section 6.3, if the Force Majeure Event or Forced Project Outage event has been cured, mitigated, or otherwise resolved prior to Seller's receipt of any termination notice by TVA

pursuant to this Section 6.3, and Seller demonstrates to TVA's reasonable satisfaction that Seller is capable of generating, in a consistent manner, at the Minimum Capacity Factor, then TVA shall no longer have a right to terminate under this Section 6.3 for that Extended Outage Period.

Section 6.4 Project Description and Characteristics. Exhibit G-1 provides a detailed description of the Project. Exhibit G-2 provides additional information with respect to major equipment and components expected to make up the Project. Seller shall provide advance written notice to TVA at the earliest practicable time of any proposed changes to Exhibit G-1. Seller shall also provide advance written notice to TVA at the earliest practical time regarding any proposed changes to equipment that may alter generation capabilities other than capacity or items set forth in Exhibit G-1. TVA may accept or reject such proposed changes, in its sole discretion, by providing written notification to Seller. Seller shall also periodically report to TVA any changes to Exhibit G-2.

ARTICLE VII: PURCHASE OPTIONS

Section 7.1 Right of First Refusal. If, during the Term of this Agreement and the period extending ten years beyond the end of the Term of this Agreement, Seller wishes to pursue a sale of its interest, or any portion thereof, in the Project to an entity other than a Financing Party, Seller shall, in good faith, first provide to TVA a written option to purchase (the "Purchase Option") such interest in the Project (the "Sale Interest") at a price specified by Seller (the "Option Price"), which Purchase Option shall remain open to TVA to exercise for a period of forty-five (45) days following receipt of the Purchase Option (the "Option Period"). If TVA does not exercise the Purchase Option prior to expiration of the Option Period, then Seller may pursue the sale of the Sale Interest with any third party, subject to Section 11.2 at a sale price no less than the Option Price. If Seller wishes to pursue any subsequent or alternative sale of its interest in the Project, where the Sale Interest or Option Price is different from that offered to TVA in a prior Purchase Option, then Seller shall first provide a new Purchase Option to TVA, subject to the terms of this Article VII, reflecting the new Sale Interest.

Section 7.2 Fair Market Value Purchase. At the end of the initial **twenty (20) [15 or 20]** year Term of this Agreement, TVA may exercise a right (but is under no obligation) to purchase the Project (including associated real property rights, equipment, and interconnection facilities) at fair market value ("Purchase Price"), which shall be determined in an arm's-length transaction between the Parties.

(a) No fewer than one hundred eighty (180) days prior to the proposed purchase date, TVA shall provide a notice to Seller requiring a determination of the Purchase Price. Upon TVA doing so, TVA and Seller shall either (i) mutually agree upon the Purchase Price for the Project or (ii) obtain an independent appraisal. No more than ten (10) days following agreement to obtain an independent appraisal, the Parties shall agree upon an independent appraiser to determine the Purchase Price of the Project. If the Parties are not able to mutually agree upon an independent appraiser, then each Party shall select an appraiser who has experience in the valuation of utility-scale commercial solar photovoltaic electric generation systems in the southeastern United States, and the appraisers so selected shall confer and jointly

select a similarly qualified independent appraiser, who shall be the independent appraiser to determine the Purchase Price of the Project.

(b) The independent appraiser shall provide a preliminary determination of the Purchase Price to Seller and TVA, together with the supporting documentation and analysis. Either Seller or TVA may object in writing to the preliminary determination within twenty (20) days after receiving it. Within ten (10) Business Days after (i) receiving any such objection or (ii) receiving no such objection, the independent appraiser shall issue a Final Determination to Seller and TVA, which shall specifically address the substance of any objections raised by either Party and how such objections were taken into account in making the Final Determination. If TVA decides to exercise the purchase option, it must provide written notice to Seller of its intent to exercise the option within twenty (20) Business Days after either (i) the date of the Final Determination, or (ii) if Seller and TVA have mutually agreed upon a Purchase Price, the date that the Parties agree upon a Purchase Price.

ARTICLE VIII: SUPPLY GUARANTEE; DISCONNECTION OR CURTAILMENT

Section 8.1 Supply Guarantee Generally. Commencing on the Initial Delivery Date, Seller shall guarantee the supply of sufficient Energy Output to TVA during each Delivery Period so as to meet or exceed the Annual Supply Guarantee for such Delivery Period. If the Energy Output provided by Seller to TVA under this Agreement is not sufficient to meet the Annual Supply Guarantee for the Delivery Period in question (such shortfall being referred to herein as “Deficient Energy”), Seller shall pay liquidated damages to TVA with respect to such Annual Supply Guarantee: (i) with respect to Deficient Energy and (ii) with respect to Environmental Attributes associated with the amount of the Deficient Energy, if applicable, as measured in accordance with Exhibit C, and payable as set forth in this Agreement.

If the Initial Delivery Date occurs after the start of any calendar year, the number of possible hours for the first Delivery Period (expressed as “PH” in Exhibit B) shall be adjusted to reflect the additional hours included in the first Delivery Period. For example, if the Initial Delivery Date occurs at the start of a December 1st, then PH for the first Delivery Period would be $8,760 + 744 = 9,504$.

If this Agreement terminates prior to the end of any calendar year there shall be deducted from the number of possible hours for that final Delivery Period (expressed as “PH” in Exhibit B) any and all hours during such calendar year occurring after the termination of this Agreement. For example, if the final Delivery Period terminates at the end of a June 30th, then PH for the final Delivery Period would be $8,760 - 4,416 = 4,344$.

Section 8.2 Excused Hours. In determining whether Seller has met the Annual Supply Guarantee, there shall be deducted from the total number of hours in said Delivery Period any and all hours (“Excused Hours”) during which Seller was unable to deliver and/or TVA was unable to receive and utilize energy supplied from the Project due solely to one or more of the following:

- (a) a disconnection or Curtailment pursuant to Section 8.3;
- (b) a Force Majeure Event;
- (c) a suspension pursuant to Section 9.2; or
- (d) an outage on the TVA transmission system or Distributor's System.

Section 8.3 Disconnection of Project or Curtailment of Deliveries. In order to remain consistent with Good Utility Practice or compliant with Applicable Law, TVA or Distributor may require Seller: (1) to effect a Curtailment of deliveries from the Project or (2) to temporarily disconnect the Project from the TVA transmission system or Distributor's System, as the case may be, as necessary or appropriate to eliminate adverse impacts attributable to operation of the Project, including the following circumstances, whether such circumstances exist on the TVA transmission system, Distributor's System, or another system:

- (a) if a condition exists that presents an imminent physical threat to persons or property and disconnection or Curtailment appears necessary to protect such persons or property; or
- (b) to overcome transmission or distribution system reliability problems; or
- (c) if such disconnection or Curtailment is necessary to construct, install, maintain, repair, replace, remove, investigate, inspect, or test any affected part of the TVA transmission system or Distributor's System; or
- (d) as permitted under any other express provisions of this Agreement that provide for any such disconnection or Curtailment.

Section 8.4 Economic Curtailment. Notwithstanding the foregoing, TVA shall have the right to curtail Project energy based on TVA power system cost in order to effectively manage the economics of the overall TVA power system. Any available Project energy that is curtailed for economic purposes shall be considered delivered energy from Seller for purposes of the Annual Supply Guarantee and for purposes of Section 6.3 "Extended Outage." For any Month in which TVA has curtailed the Project for economic reasons, TVA shall pay Seller, in addition to amounts otherwise due, an amount equal to the Contract Price multiplied by the estimated amount of such curtailed energy plus the monetary value (including gross-up for taxes due on such amounts) of the unrealized Production Tax Credits, if any, that Seller would have received if the Project has elected to receive PTCs. The Parties shall estimate the expected amount of such economically curtailed energy that would have been generated but for the curtailment, in a Commercially Reasonable manner, consistent with Applicable Law and Good Utility Practice, based on measured solar irradiance for each hour during the economic curtailment period.

Section 8.5 Automatic Generation Control. Seller shall install, at Seller's expense and by no later than the Initial Delivery Date, an automatic generation control (AGC) system for the

Project in accordance with TVA's specifications and direction. Any disconnection or Curtailment under Section 8.3 or curtailment under Section 8.4 will be administered through TVA's energy management system or in a manner otherwise acceptable to TVA.

ARTICLE IX: DEFAULT; EARLY TERMINATION; REMEDIES

Section 9.1 Events of Default. An "Event of Default" means, with respect to a Party or Seller (including an Affiliate of Seller), as specified (a "Defaulting Party"), the occurrence of any of the following:

(a) the failure by a Party to make, when due, any payment required pursuant to this Agreement, including a failure to pay liquidated damages, if such failure is not remedied within twenty (20) Business Days after receipt of written notice from the other Party;

(b) any representation or warranty made by such Party in Section 15.1 is false or misleading in any material respect as of the Effective Date, or with regard to the representations and warranties set forth in Section 15.1(a) through (d), at any time during the Term of this Agreement;

(c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent addressed as a separate Event of Default under another subsection of this Section 9.1, and except for the failure of Seller or TVA to comply with an obligation under this Agreement for which a specific remedy has been agreed upon) if such failure is not remedied within thirty (30) calendar days after written notice from the other Party; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) day cure period, such Party may have up to an additional fifteen (15) calendar days to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy and provides to the other Party a written action plan therefor;

(d) the filing of an involuntary petition in bankruptcy or any involuntary proceeding under any other insolvency law against a Party as debtor and the failure to have the same dismissed within one hundred and twenty (120) calendar days from the date of filing;

(e) the filing by a Party of a voluntary petition in bankruptcy or for insolvency or reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or a Party voluntarily taking advantage of any such law or act by answer or otherwise;

(f) the failure of Seller to comply with the requirements stated in Exhibit D – Credit Annex and all of its attachments (including, without limitation, Seller's delivery to TVA of Performance Assurance) consistent with Article XI and all related provisions of this Agreement;

(g) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger, or transfer, the resulting surviving or transferee entity fails to assume all

the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;

(h) the Solar Asset at any time after the Initial Delivery Date fails to generate and deliver electric power and energy exclusively from solar energy by means of monocrystalline panels, polycrystalline panels, or thin film cells;

(i) Seller makes sales or transfers of energy or Environmental Attributes to any third party, or makes claims that trigger retirement of any REC or other Environmental Attribute associated with the Project;

(j) Seller's failure to deliver any Other Project Attributes associated with the Project;

(k) Seller, or an Affiliate of Seller, breaches or causes an event of default under any other written agreement between Seller, or an Affiliate of Seller, and TVA related to the Project and such event of default is not cured by the time provided in said agreement;

(l) Seller's failure to provide adequate assurances in accordance with Section 3.5; or

(m) Any transmission queue positions or Permits expire without renewal or are cancelled or surrendered by Seller, any Real Property Agreement necessary to develop and operate the Project is terminated or expires without renewal, or Seller stops or abandons the (i) development or construction of the Project prior to the Initial Delivery Date, or (ii) reconstruction or repair of the Project following destruction or damage to the Project; provided, however, that Seller will have thirty (30) days after written notice from TVA to remedy any such failure or occurrence.

Section 9.2 Remedies for an Event of Default.

(a) Subject to Article XIII, Seller shall have the right, but not the obligation, to do one or more of the following upon the occurrence of, and after providing written notice to TVA of, TVA's Event of Default:

(i) suspend performance of its obligations under this Agreement, including withholding any payments due to TVA under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof given pursuant to Section 9.3; or

(ii) declare an Early Termination Date and receive a Termination Payment from TVA.

(b) Subject to Article XIII, TVA shall have the right, but not the obligation, to do one or more of the following upon the occurrence of, and after providing written notice to Seller of, Seller's Event of Default:

(i) suspend performance of its obligations under this Agreement, including withholding any payments due to Seller under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof given pursuant to Section 9.3;

(ii) make a written request and draw upon the Performance Assurance that Seller provided to satisfy any and all payments due and amounts otherwise owing (including any liquidated damages) under this Agreement;

(iii) declare an Early Termination Date and receive a Termination Payment from Seller, or

(iv) seek and obtain specific performance of Seller's obligations under this Agreement, but only with regard to an Event of Default occurring after Seller has achieved IDD and only if TVA has not exercised any right it has to terminate this Agreement.

The remedies set forth in this Section 9.2 shall constitute the Non-Defaulting Party's sole and exclusive remedies for an Event of Default.

Section 9.3 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party occurs and is continuing, the other Party ("Non-Defaulting Party") may designate a day, no earlier than the day such notice is effective and no later than twenty (20) calendar days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate this Agreement; provided that the Early Termination Date shall be no earlier than the date the Non-Defaulting Party notifies the Defaulting Party of the Early Termination Date and no later than twenty (20) calendar days after such notification of the Early Termination Date. The Non-Defaulting Party shall calculate, in a Commercially Reasonable manner, a Settlement Amount for this Agreement as of the Early Termination Date, which Settlement Amount will then be considered due and owing. In making the calculation described in the foregoing sentence, the "Settlement Amount" means the Non-Defaulting Party's Losses or Gains, and Costs, expressed in U.S. Dollars, which such Party incurs as a result of the liquidation and termination of this Agreement pursuant to this Section. Notwithstanding the foregoing, (i) if the Event of Default occurs prior to Seller achieving NTP and Seller is the Defaulting Party, then the Settlement Amount shall be the amount of NTP Deadline Damages, and (ii) if the Event of Default occurs after Seller achieves NTP but prior to Seller achieving IDD and Seller is the Defaulting Party, then at TVA's option, the Settlement Amount shall be an amount calculated in accordance with the definition thereof or an amount equal to the Termination IDD Damages. The Non-Defaulting Party shall aggregate the Settlement Amount with all other amounts due to the Non-Defaulting Party under this Agreement so that all such amounts constitute a single liquidated amount (the "Termination Payment").

Section 9.4 Termination Payment Limitation. If the termination is due to a Seller Event of Default prior to the Initial Delivery Date, the Termination Payment shall not exceed the Performance Assurance amount required from Seller as of the date of termination.

Section 9.5 Notice of Termination Payment Amount. As soon as practicable after a declaration of an Early Termination Date, the Non-Defaulting Party shall give notice to the Defaulting Party of the amount of the Termination Payment (if any). The notice shall include a request for payment and a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party within five (5) Business Days after receiving a request for the same.

Section 9.6 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days after receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for and extent of such dispute; provided, however, that if Seller is the Defaulting Party, Seller shall first ensure that TVA holds Performance Assurance in the form of Cash (whether through draws on any Letter of Credit held as Performance Assurance or otherwise) in an amount equal to the disputed portion of the Termination Payment.

ARTICLE X: BILLING AND PAYMENT

Section 10.1 Billing [*See Footnote 1 on the applicability of the CRPS Fixed Price*].

(a) Based on recorded meter data provided by the Metering Equipment installed per Section 5.1 ("Meter Readings"), and after receipt of a Proper Invoice TVA shall pay the Contract Price for the Energy Output and/or Test Energy Price for Energy Output from the Project (as applicable) to Seller each Month of the Term.

(b) Subject to Sections 4.5 and 4.6 and after receipt of a Proper Invoice, TVA shall pay the CRPS Fixed Price to Seller each Month of the Term for any CRPS provided during that Month. When the Project is not producing Energy Output, the Metering Equipment installed per Section 5.1 will be utilized to measure the combination of normal parasitic losses and incremental energy used by the Project for CRPS. The energy and power demand associated with parasitic losses will be estimated based on test data and billed to Distributor for resale to Seller. The remaining incremental energy used for CRPS will be provided by TVA and thus not be billed to Distributor nor resold to Seller.

Section 10.2 Payment. Seller must provide a Proper Invoice to TVA based on said Meter Readings and on Section 10.1(b) with regard to the provision of CRPS, within ten (10) Business Days following the Month of actual energy delivery. Unless Seller requests early payment as specified below, upon receipt of a Proper Invoice TVA shall promptly pay Seller within thirty five (35) calendar days or if the thirty fifth (35th) calendar day is not a Business

Day, then on the next Business Day. Each payment to Seller shall be made electronically through the Automated Clearing House (ACH) network to Seller's account as designated by Seller.

Section 10.3 Early Payment. Seller may request early payment by stating such request both in a Proper Invoice and in an accompanying transmittal message (e.g., email). Upon receipt of such request for early payment, TVA shall apply a three (3) percent early payment discount to the total monthly invoice payment and shall promptly pay Seller within ten (10) calendar days or if the tenth (10th) calendar day is not a Business Day, then by the first Business Day following such calendar day.

Section 10.4 Invoice Submittal. Seller shall submit all invoices, including supporting documentation, electronically to TVA at SettlementsFA@tva.gov, solarprojects@tva.gov and AssetManagement@tva.gov.

Section 10.5 Netting. Amounts owed by each Party to the other Party during a monthly billing period under this Article X shall be offset against each other so that only one Party shall pay a net amount to the other Party. Any liquidated damages owed by Seller to TVA pursuant to Article VIII and Exhibit C ordinarily will be applied as a credit toward amounts owed Seller by TVA under Section 10.1 and calculated and invoiced under Section 10.2.

Section 10.6 Offset. If Seller is in breach of any requirement of this Agreement or any other agreement with TVA, TVA may withhold payments that may be due to Seller and may offset any costs incurred by TVA as a result of the breach, other damages, or monies owed to TVA against funds due Seller under this or any agreement that Seller has with TVA.

Section 10.7 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to, but excluding, the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments due, without interest. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 10.7 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance under this Agreement occurred, the right to payment for such performance is waived.

ARTICLE XI: PERFORMANCE ASSURANCE, ASSIGNMENT, AND PROJECT FINANCE

Section 11.1 Performance Assurance. Seller shall provide and maintain the Performance Assurance in compliance with Exhibit D for the duration of the Term of this Agreement.

Section 11.2 Assignment.

(a) Except as otherwise expressly set forth in this Section, neither Party will assign this Agreement nor any of its rights or obligations hereunder (including any collateral assignment of its rights or interest in connection with any financing related to the construction, operation, or maintenance of the Project) without the prior, written consent of the other Party, which consent shall not be unreasonably withheld. Without such consent from TVA, Seller may assign, transfer, or pledge its interest in the revenues and payments to be made under this Agreement.

(b) Notwithstanding the foregoing, Seller will have the right to assign this Agreement to a single third party, subject to TVA's consent, such consent not to be unreasonably withheld, if (1) in the case of an assignment of this Agreement, the assignee can financially and technically perform under the terms of the Agreement, and (2) TVA is not prohibited from contracting with the assignee, under applicable law or then current TVA credit policies and/or guidelines.

(c) Neither Party may enter into any transaction or series of transactions in which a third party obtains more than a 50% controlling interest in the Party ("Change of Control") except (1) with the other Party's written consent, which shall not be unreasonably withheld, or (2) in the case of Seller, Seller has provided TVA with a written certification thirty (30) days in advance of the Change in Control, together with supporting details, that (A) after such Change of Control, Seller will have the Required Creditworthiness and Required Ownership Expertise, and (B) under applicable law, the new controlling interest holder is not a party that TVA would be prohibited from contracting with, either directly or indirectly, and the Change of Control will not cause Seller to be a party that TVA would be prohibited from contracting with. A false certification by Seller under this subsection will constitute a material breach of this Agreement under Section 9.1.

(d) In the event Seller's rights, interests, or obligations under this Agreement are assigned or assumed as a matter of law to an entity with which Seller is merged or consolidated ("Successor Seller"), any such assignment or assumption shall be contingent upon Seller and Successor Seller furnishing TVA with adequate assurances that the Successor Seller is financially capable of performing Seller's obligations under this Agreement and that TVA is not prohibited from contracting with the Successor Seller under applicable law or then current TVA credit policies and/or guideline.

(e) No assignment, transfer, or pledge of Seller's or a Successor Seller's interests in the Agreement shall release the assignor, pledger, or transferor from any of its obligations under this Agreement to accrue prior to such assignment, transfer, or pledge. Except as stated above, either Party's purported assignment of this Agreement, in whole or in part, or a Change in Control, without the prior, written approval of the other Party is null and void.

Section 11.3 Project Finance. In connection with any financing or refinancing of the Project by Seller, TVA shall, from time to time, within twenty business days after receiving a written request from Seller, deliver to Seller, or Seller's designee: (a) a consent to collateral assignment of this Agreement in the form attached hereto as Exhibit I, and (b) an estoppel certificate in the form attached hereto as Exhibit J. Seller's request for a consent to collateral assignment or an estoppel certificate must state whether delivery of the document by TVA is a requirement for Seller to obtain financing or refinancing for the Project. Seller agrees to provide TVA with such information concerning the financing or refinancing as TVA may reasonably request. If a form of consent to collateral assignment or estoppel certificate is requested other than in the form attached hereto as Exhibit I or Exhibit J, respectively, TVA shall not be obligated to agree to any material modification of the terms of the attached forms.

ARTICLE XIII: LIMITATIONS

Section 13.1 Limitations of Liability.

UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS, OR OTHER BUSINESS INTERRUPTION DAMAGES, IN TORT OR CONTRACT, UNDER ANY PROVISION OF THIS AGREEMENT.

THE LIMITATIONS OF LIABILITY STATED IN THIS SECTION ARE IMPOSED WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF EITHER PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, OR CONCURRENT, OR ACTIVE OR PASSIVE.

Section 13.2 Liquidated Damages.

WHERE THIS AGREEMENT SPECIFIES THAT SELLER WILL BE LIABLE, DUE TO SELLER FAILURE(S) OR ACTION(S), TO PAY TVA MONETARY DAMAGES IN CONNECTION WITH SUCH FAILURE(S) OR ACTION(S), THE PARTIES AGREE THAT THESE ARE LIQUIDATED DAMAGES, AND AS SUCH, THESE DAMAGES ARE: (A) REASONABLE APPROXIMATIONS OF AND STATE ADEQUATE REMEDIES FOR THE SUBJECT HARM OR LOSSES, (B) IN LIEU OF ACTUAL DAMAGES, WHICH WOULD BE DIFFICULT OR IMPOSSIBLE TO QUANTIFY, (C) NEITHER PENAL NOR PUNITIVE, AND (D) NOT SUBJECT TO THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 13.1.

ARTICLE XIV: GOVERNMENTAL CHARGES

Section 14.1 Cooperation. Each Party shall use Commercially Reasonable efforts to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

Section 14.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority (“Governmental Charges”) on or with respect to the Product arising prior to the Delivery Point. TVA shall pay or cause to be paid all Governmental Charges on or with respect to the Product at and from the Delivery Point (other than ad valorem, franchise, or income taxes that are related to the sale of the Product and are, therefore, the responsibility of Seller). In the event Seller is required by Applicable Law to remit or pay Governmental Charges that are TVA’s responsibility hereunder, TVA shall promptly reimburse Seller for such Governmental Charges. If TVA is required by Applicable Law to remit or pay Governmental Charges that are Seller’s responsibility hereunder, TVA may offset the amount of any such Governmental Charges against sums due to Seller under this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law. Each Party shall cooperate with the other Party in order to qualify for or take advantage of any available reduction in or exemption from such Governmental Charges and to otherwise minimize the amount of such Governmental Charges that must be paid under Applicable Law.

ARTICLE XV: REPRESENTATIONS AND WARRANTIES

Section 15.1 Representations and Warranties. As of the Effective Date, each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation;
- (b) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement, except those authorizations which Seller reasonably expects to receive in the ordinary course, e.g., those required to be obtained from or with the cooperation of TVA;
- (c) the execution, delivery, and performance of this Agreement are within its powers, have been duly authorized by all necessary action, and are not inconsistent with any of the terms and conditions in its governing documents, any contracts to which it is a party, or any Applicable Law;
- (d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it that would result in it being or becoming Bankrupt;

(f) there is not pending or, to its knowledge, threatened against it or any of its Affiliates, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(g) nothing which would constitute an Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement;

(i) the parties intend for this Agreement to be a “forward contract” as defined in 11 U.S.C. § 101(25);

(j) it has entered into this Agreement in connection with the conduct of its business and it has the due capacity or ability to make or take delivery of all Products referred to in this Agreement;

(k) with respect to the purchase or sale of a Product, it is a producer, processor, commercial user, or merchant handling the Product, and it is entering into this Agreement for purposes related to its business as such; and

(l) it is an “eligible contract participant” within the meaning of the United States Commodity Exchange Act.

EXCEPT AS SET FORTH EXPLICITLY IN THIS AGREEMENT, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

ARTICLE XVI: FORCE MAJEURE

Section 16.1 Force Majeure Occurrence and Notice. To the extent that any Party is prevented by a Force Majeure Event from performing, in whole or in part, its obligations under this Agreement (other than the obligation to pay money) or from complying with, in whole or in part, requirements under this Agreement, such Party (the “Claiming Party”) shall give notice and details of the Force Majeure Event to the other Party as soon as practicable. In addition, any completion milestones or deadlines or time periods by which performance is due will be extended for a period of time equal to the time period during which such Force Majeure Event

actually prevents the Claiming Party's performance. The Claiming Party shall use Commercially Reasonable efforts to remedy the Force Majeure Event and mitigate any adverse effects on the performance of its obligations under this Agreement. The Claiming Party shall promptly notify the other Party when it is able to resume performance of its obligations and compliance with such conditions under this Agreement, if it is able to do so. Until the other Party is so notified, it shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by a Force Majeure Event. No Party will be relieved or excused by operation of this Article XVI of any liability for breach of any obligations that were to be performed or that accrued before the Force Majeure Event. If the Force Majeure Event does not prevent entirely Seller from providing Energy Output and Other Project Attributes, then Seller shall provide Energy Output and Other Project Attributes not so prevented. If deliveries of Energy Output or Other Project Attributes are prevented in whole or in part by a Force Majeure Event, the deliveries in question shall not be made up and the Term shall not be extended to permit any makeup or offset of the lost deliveries.

ARTICLE XVII: MISCELLANEOUS

Section 17.1 Title. Delivery of any and all Energy Output and Other Project Attributes being purchased by TVA shall be deemed completed at the Delivery Point, and title to such Energy Output shall pass to TVA upon delivery thereto.

Section 17.2 Waiver. The non-exercise of, or delay in exercising, any power or right of a Party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the Party to be bound by the waiver.

Section 17.3 Choice of Law. This Agreement shall be governed, construed and interpreted in accordance with the Federal laws of the United States of America.

Section 17.4 Exhibits Made Part of this Agreement. The Exhibits identified in, and attached to, this Agreement are made a part of this Agreement.

Section 17.5 Approvals. Each Party hereto shall use Commercially Reasonable efforts and shall cooperate with the other to obtain any Permit. TVA, however, shall not be obligated to obtain any Permit or have financial responsibility for obtaining any Permit.

Section 17.6 Severability. In the event that any of the terms, covenants, or conditions of this Agreement, including its Exhibits, or the application of any such term, covenant, or condition shall be held invalid by any court or administrative body having jurisdiction, it is the intention of the Parties that in lieu of each such term, covenant, or condition that is held invalid, the Parties shall negotiate a valid term, covenant, or condition as similar in effect as possible to such invalid term, covenant, or condition. The Agreement shall not otherwise be affected thereby and shall remain in full force and effect.

Section 17.7 Integration. The terms and provisions contained in this Agreement between the Parties constitute the entire agreement between the Parties, and supersede all previous communications and representations, either oral or written, between the Parties with respect to the subject matter of this Agreement.

Section 17.8 Notices and Payments.

(a) Notices and Invoices. Except as otherwise expressly provided under this Agreement, any notice or invoice provided for in this Agreement must be in writing and shall be effective on the day on which it is actually received (provided that such day is a Business Day, otherwise it shall be deemed to be received on the first Business Day immediately following such day), in person, by U.S. Mail, by other nationally recognized delivery service, or by e-mail or facsimile transmission at the addresses provided set forth below:

If to TVA:

Tennessee Valley Authority
1101 Market Street, MR 2C
Chattanooga, TN 37402
Attention: Director, Origination & Utility Scale Solar

Email: AssetManagement@tva.gov and solarprojects@tva.gov

If to Seller:

PROJECT, LLC
ADDRESS
CITY, STATE, ZIP
Attention:
Phone:
Email:

(b) Payments. All payments required to be made to TVA under this Agreement shall be made by Automated Clearing House (ACH) to the following account (or to other account as may subsequently be designated by TVA), with the amounts deemed received as of the date the electronic fund transfer to the recipient's account is deemed effective:

Depository Institution Name: Credit Gateway-ACH Receiver
Address: 60 Livingston Avenue
St. Paul, Minnesota 55107
ABA Routing Number: 051036706
Receiving Company Name: Tennessee Valley Authority
DFI Account Number: 349000
Standard Entry Class: CCD+
Transaction Code: 22
Employer Identification No (EIN): 62-0474417

All payments required to be made to Seller under this Agreement shall be made by wire to:

Beneficiary Name:
Beneficiary Address
Intermediary Bank Name:
Bank Address:
Swift Code or ABA:
Account Number:

Section 17.9 Audit.

(a) The Parties shall maintain accurate records and books of account. Said books and records shall present fairly all costs and expenses utilized in computing any charges or payments to the other Party under this Agreement.

(b) Each Party shall have the right at its own expense, upon two Business Days' advance notice and during normal business hours, to have its own personnel or its independent auditors inspect the books and records of the other Party hereto pertaining solely to the performance of this Agreement at the offices of the other Party, to the extent necessary to verify the amounts of energy delivered, the amounts owed to Seller by TVA, and any amount owed to TVA by Seller. The Party conducting the inspection shall use its best efforts to minimize any disruptions of the other Party's operations that might result from any such inspection. Nothing in this Section 17.9(b) shall diminish the rights of TVA's Office of the Inspector General to conduct any audit or inspection related to the Agreement.

(c) Upon at least ten (10) Business Days' prior written notice from TVA, and no more than once per Delivery Period, Seller shall make the Project, including records relating to its operations, maintenance, and warranty repairs, available to TVA for inspection during normal business hours.

Section 17.10 Dispute Resolution. Unless otherwise provided in this Agreement, the Parties agree to use their best efforts to resolve disputes related to this Agreement informally at the lowest possible levels of decision making. Disputes not resolved at the working level will be referred to higher levels of management of both Seller and TVA for consideration, as necessary, and resolution, if possible. Any legal or equitable action related to this Agreement shall be brought in the United States District Court for the Eastern District of Tennessee and THE PARTIES HEREBY WAIVE: (a) ANY OBJECTION TO THAT COURT'S JURISDICTION OVER THEM, OR THAT VENUE IS PROPER IN SUCH COURT, and (b) ANY RIGHT TO A JURY TRIAL. This Section 17.10 is not a "Disputes" clause within the meaning of the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, and this Agreement is not subject to the provisions of such Act.

Section 17.11 Indemnity and Insurance.

(a) Seller shall indemnify, defend, save, and hold harmless TVA and its directors, officers, employees, contractors, and agents from any and all claims for injury to persons or damage to property or the environment, including any adverse wildlife or environmental impacts, to the extent caused by: (i) Seller's negligent, reckless, or intentional acts or omissions in conducting activities within the scope of this Agreement, or (ii) Seller's failure to comply with Applicable Law, or the conditions or requirements of any Environmental Attribute or Environmental Review. Seller is solely responsible for the risk of loss of, or damage to, the Project, Site, or adjacent properties, except to the extent that the loss or damage results from the reckless or intentional acts or omissions of TVA and its directors, officers, employees, contractors, or agents.

(b) Seller shall maintain or cause to be maintained the insurance required by Exhibit E. Failure of Seller to do so shall be deemed a failure to perform a material covenant or obligation set forth in Section 9.1(c).

Section 17.12 Interpretation. Unless otherwise expressly stated, references in this Agreement to "Sections" are to Sections of this Agreement, references to "Articles" are to Articles of this Agreement, and references to "Exhibits" are to the Exhibits attached to this Agreement. All references to Sections in the Exhibits to this Agreement are to the Sections in the Exhibits in which they appear unless otherwise noted. All titles, headings, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the contents or scope of this Agreement. Words defined in the singular have the corresponding meaning in the plural and vice versa. Use of "including" means including without limitation. References to one gender include all others. Any capitalized terms used in the Exhibits to this Agreement that are not specifically defined in such Exhibits shall have the meanings ascribed to them in this Agreement. Such Exhibits shall constitute a material part of this Agreement, and the provisions of such Exhibits shall be interpreted and enforced as if such provisions were directly set forth in this Agreement.

Section 17.13 No Partnership or Agency. Nothing in this Agreement shall be treated as creating a partnership or joint venture between the Parties under Applicable Law and, except as specifically provided in this Agreement, neither Party may act or have any authority to act as agent of or in any way bind or commit the other Party to any obligation.

Section 17.14 Costs and Expenses. Each Party shall bear and is responsible for its own costs (including attorney fees) in connection with the negotiation, preparation, execution, completion, implementation, and ongoing administration of this Agreement.

Section 17.15 Rights Cumulative. Except as specifically provided in this Agreement, the rights and remedies provided in this Agreement are cumulative with and do not exclude any rights or remedies provided by law.

Section 17.16 Amendment. This Agreement may be amended, changed, modified, altered, extended, or terminated, provided that such amendment, change, modification, alteration, extension, or termination shall be in writing and signed by both Parties.

Section 17.17 Survival of Obligations. Except as specifically provided in this Agreement, cancellation, expiration, or early termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration, or termination, including warranties, remedies, and promises of indemnity.

Section 17.18 Counterparts. This Agreement may be executed in two or more counterparts, each of which is signed by one of the Parties but all of which together shall constitute but one and the same agreement.

Section 17.19 Confidentiality.

(a) A Party may not disclose the terms of this Agreement or any confidential information provided hereunder that is conspicuously marked as confidential (together, “Confidential Information”) to a third party except as follows (i) to the Party’s parents, Affiliates, potential or existing investors, consultants, potential or existing lenders, counsel, counsel for potential or existing investors or lenders, or accountants, or specific TVA customers or specific Distributor customers receiving the benefit of Environmental Attributes associated with the Project and to the applicable Distributor, or prospective assignees permitted pursuant to Section 11.2 to the extent required for the consideration of an assignment, that have agreed in writing to keep the Confidential Information confidential on terms no less restrictive than those set forth in this Section, (ii) to comply with Applicable Law, (iii) TVA may disclose to TVA customers or specific Distributor customers receiving the benefit of Environmental Attributes associated with the Project and to the applicable Distributor, details regarding an actual or anticipated Seller breach or non-performance of this Agreement or a claim of force majeure by Seller, or (iv) with the other Party’s prior written approval.

(b) A Party shall promptly notify the other Party if it is required by Applicable Law to disclose Confidential Information so that the Party that owns or controls the Confidential Information may take action to prevent or limit the scope of such required disclosure.

(c) The Parties acknowledge and agree that disclosure or unauthorized use of information described in this Section 17.19 could damage the other Party and that said other Party, therefore, has an interest in protecting that information by all legal means, and further that breach of the promises set forth above could cause irreparable damage to the Party possessing proprietary rights in Confidential Information wrongfully disclosed, and still further that in the event of such breach, said Party shall have the right to an injunction, specific performance, or other equitable relief to prevent the violation of the promises mentioned above. Under 18 U.S.C. Section 1905, officers and employees of TVA may be subject to criminal liability in the event Confidential Information is disclosed unless such disclosure is authorized by law. Accordingly, Seller agrees that, in addition to the equitable relief identified above, Seller shall only be entitled to recover from TVA, its officers, agents, and employees any and all gains wrongfully acquired, directly or indirectly, from unauthorized disclosure of any Confidential Information.

Section 17.20 Project Communications. Seller will, when communicating publicly about the Project and associated RECs, identify TVA (by name or through the use of the TVA logo) in promotional efforts and materials associated with the Project. Use of the TVA logo must follow TVA's logo use guidelines. If Seller intends to include language in addition to TVA's name and/or logo, Seller must provide such language to TVA in advance for approval. Seller will notify TVA of public events in advance to enable reasonable efforts to participate.

Section 17.21 Project Collaboration. Parties will endeavor to find mutually agreeable opportunities for education and research that benefit the Parties, and/or specific TVA customers or specific customers served by Distributors receiving the benefit of Environmental Attributes associated with the Project.

Section 17.22 Service Contract. Each Party intends this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986.

DRAFT

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

PROJECT, LLC

By: _____

Name: _____

Title: _____

TENNESSEE VALLEY AUTHORITY

By: _____

Name: _____

Title: _____

DRAFT

EXHIBITS

Exhibit A	Solar Asset Prices
Exhibit B	Supply Guarantee
Exhibit C	Liquidated Damages
Exhibit D	Credit Annex
Exhibit E	Insurance
Exhibit F	Legally Required Clauses
Exhibit G-1	Project Description
Exhibit G-2	Project Characteristics
Exhibit H	Project Development Milestone Schedule
Exhibit I	Form of Consent and Agreement
Exhibit J	Form of Estoppel Certificate
Exhibit K	Interconnection Direct Assignment Cost Adjuster

EXHIBIT A

SOLAR ASSET PRICES / See Footnote 1 on the applicability of the CRPS Fixed Price]

In accordance with Section 4.6, the Year 1 “Base Price” is **TBD** \$/MWh. When the Final IDA Cost is known, the Year 1 Base Price will be adjusted to **TBD** \$/MWh plus the IDA Cost Adjuster; this adjusted Base Price shall only be applied prospectively after the Final IDA Cost is known. The Base Price will escalate annually by 2.0%.

In accordance with Section 4.6, the Year 1 “CRPS Fixed Price” is TBD \$/MWh, which will escalate annually by 2.0%. The Base Price for each Delivery Period is multiplied by the applicable Price Ratio below to reach the seasonal time-of-day Contract Price for each hour of Energy Output during the Delivery Period, in accordance with terms of the Agreement to which this is an exhibit:

Months	Time of Day (CPT)	Price Ratio
July & August	Mon-Fri 2pm-7pm	130.26%
	Mon-Fri 6am-2pm and 7pm-12am; Sat & Sun 6am-12am	103.92%
	Everyday 12am-6am	83.59%
June & September	Mon-Fri 12pm-8pm	117.04%
	Mon-Fri 6am-12pm and 8pm-12am; Sat & Sun 6am-12am	96.71%
	Everyday 12am-6am	79.84%
January & February	Mon-Fri 6am-10am and 7pm-10pm	102.81%
	Mon-Fri 10am-7pm	87.30%
	Mon-Fri 10pm-12am; Sat & Sun 6am-12am	85.76%
	Everyday 12am-6am	81.18%

December & March	Mon-Fri 6am-10pm	97.38%
	Mon-Fri 10pm-12am; Sat & Sun 6am-12am	89.94%
	Everyday 12am-6am	101.32%
April, May, October & November	Mon-Fri 6am-10pm	97.72%
	Mon-Fri 10pm-12am; Sat & Sun 6am-12am	90.15%
	Everyday 12am-6am	77.26%

DRAFT

EXHIBIT B

SUPPLY GUARANTEE

A. Annual Supply Guarantee.

For each Delivery Period throughout the Term of the Agreement to which this Exhibit B is attached, Seller guarantees delivery of Energy Output, which shall include energy that has been curtailed for economic purposes, to the Delivery Point in an amount at least equal to the “Annual Supply Guarantee” calculated as here defined:

$$\text{ASG} = \text{MCF} \times \text{CO} \times (\text{PH} - \text{EH})$$

Where:

ASG = Annual Supply Guarantee

MCF = Minimum Capacity Factor = 20%

CO = Contract Output

PH = Possible Hours = 8,760 hours

EH = total number of Excused Hours, as defined under Section 8.2 of the Agreement to which this Exhibit B is attached

EXHIBIT C

LIQUIDATED DAMAGES

a. Deficient Energy

The formulas for calculating the amount of any liquidated damages (LD) owed to TVA by Seller under Section 8.1 for Deficient Energy for any Delivery Period during the Term are as follows:

$$\mathbf{LD = [DE \times DPA] + [DE \times DEA]}$$

Where:

DE = Deficient Energy in kWh and is calculated as

$$\mathbf{DE = ASG - EO}$$

Where: ASG = Annual Supply Guarantee in kWh

EO = Energy Output in kWh

For any Delivery Period in which the calculation of Deficient Energy above yields a negative number, there shall be no Deficient Energy for that Delivery Period, and there shall be no (zero) liquidated damages with regard to supply performance during that Delivery Period. Further, there shall be no further calculations using the formulas that follow with respect to said Delivery Period.

DPA (Deficient Performance Amount) = 6.0¢/kWh, escalated annually by 2.0%, such escalation beginning after the first Delivery Period.

DEA (Deficient Energy Amount) = (CSPP - BP)

Where: BP = the Base Price for the applicable Delivery Period

Provided, however, that if the calculation of DEA above yields a negative number with respect to a Delivery Period, DEA shall be deemed to be zero (0) in the formula above for calculating "LD" for said Delivery Period.

c. RECs

If Seller fails to deliver all or part of the Annual Supply Guarantee in any particular Delivery Period, TVA will have the option, at no cost to TVA, to receive from Seller either (a) RECs equivalent to the total MWh of the Deficient Energy on a MWh-for-MWh basis, if available, or (b) the then-current Alternative Compliance Payment, regardless of whether Seller otherwise owes a LD payment to TVA under this Exhibit.

EXHIBIT D
CREDIT ANNEX

Section 1 Amount of Performance Assurance and Notice.

(a) Performance Assurance. Seller shall provide and maintain throughout the Term of this Agreement or cause to be provided Performance Assurance as follows based on the Contract Output of the Project:

Milestone	\$/kW
Effective Date	\$85
The earlier of the NTP Deadline or Seller's submittal of the NTP Request	\$170
Initial Delivery Date	\$150
The tenth anniversary of the Initial Delivery Date	\$125

Performance Assurance for the Effective Date Milestone must be provided to TVA prior to TVA's signature of this Agreement. TVA will not be obligated to return Performance Assurance as of the Initial Delivery Date or tenth anniversary of the Initial Delivery Date unless Seller has first provided TVA with replacement Performance Assurance meeting the requirements of this Agreement.

For the purpose of determining the amount of the required Performance Assurance, the Contract Output of the Project will be rounded up to the nearest whole kW.

(b) Notice of Material Credit Event. Seller shall notify TVA in writing of the occurrence of any event that, with notice or the passage of time or both, would constitute a Material Credit Event with respect to Seller, which notice shall be given by Seller within five (5) Business Days of the occurrence of such event. If at any time there shall occur a Material Credit Event with respect to Seller, and such Material Credit Event is not cured or replacement Performance Assurance is not provided within ten (10) calendar days' notice of such event, then an Event of Default shall be deemed to have occurred pursuant to Section 9.1(f) of the Agreement to which this Exhibit D is attached.

Section 2 Letter of Credit as Performance Assurance. If Performance Assurance consists of a Letter of Credit, such Letter of Credit shall:

- (a) be issued by a Qualified Bank;
- (b) permit TVA to draw up to the then current “Available Amount” as defined in the Letter of Credit for the purpose of paying any and all amounts owing to TVA under the Agreement to which this Exhibit D is attached following the occurrence and during the continuation of an Event of Default; and
- (c) permit TVA to draw the entire “Available Amount” thereunder to hold as Cash collateral for any and all amounts owing to TVA under the Agreement to which this Exhibit D is attached if (i) the Letter of Credit will expire in fewer than forty-five (45) calendar days and (ii) the Seller has not provided TVA with alternative Performance Assurance.

Section 3 Substitution, Return, and Handling of Performance Assurance.

- (a) Election to Change Form of Performance Assurance. Seller shall have the right to, at any time and from time to time, request replacement of any or all of the Performance Assurance provided by it (the “*Outstanding Performance Assurance*”) with one or more alternative forms of Performance Assurance, whereupon TVA shall cooperate with the Seller in obtaining the concurrent release, termination, or return (as many as may be applicable) of the Outstanding Performance Assurance in favor of or held by TVA.
- (b) Return of Original Performance Assurance Documents. Without limitation to the generality of the foregoing, TVA shall return to the Seller all original Letter of Credit documents, and all amendment, extension, and other related documents, within sixty (60) days of the termination, cancellation, or replacement thereof.

Section 4 Financial Statements.

- (a) TVA’s Financial Statements. If requested by Seller, TVA shall deliver (i) within 120 days following the end of each fiscal year, a copy of TVA’s annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of TVA’s quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as TVA diligently pursues the preparation, certification, and delivery of the statements.
- (b) Seller’s Financial Statements. If requested by TVA, Seller shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for Seller, or Seller’s Affiliate, and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter

for Seller, or Seller's Affiliate. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification, and delivery of the statements.

DRAFT

FORM LETTER OF CREDIT

[LETTERHEAD]

[DATE]

Irrevocable Standby Letter of Credit No.

Beneficiary:

Applicant:

Tennessee Valley Authority
400 West Summit Hill Drive, WT 4C
Knoxville, TN 37902-1401

Attn: Director, Corporate Credit & Insurance

Dear Madam or Sir:

We hereby establish for the account of _____ (Seller) _____ (“Seller’s name” or “Applicant”), our irrevocable standby letter of credit in your favor for an amount of USD _____ (_____ Dollars United States currency). Applicant has advised us that this letter of credit is issued in connection with the _____ Agreement dated as of _____, 20__, between Applicant and Beneficiary (as amended and as may be further amended, supplemented or otherwise modified, the “_____ Agreement”). This letter of credit shall; (i) become effective immediately for the term of one (1) year and shall expire on _____ (the “Expiration Date”), and (ii) is subject to the following:

1. Funds under this letter of credit shall be made available to Beneficiary against its draft drawn on us in the form of Annex 1 hereto, accompanied by (a) a certificate in the form of Annex 2 hereto, appropriately completed and signed by an authorized representative of Beneficiary, dated the date of presentation and (b) the original of the letter of credit (the “Accompanying Documents”) and presented at our office located at _____, attention _____ (or at any other office that may be designated by us by written notice delivered to you). A presentation under this letter of credit may be made only on a day, and during hours, in which such office is open for business (a “Business Day”). If we receive your draft and the Accompanying Documents at such office on any Business Day, all in strict conformity with the terms and conditions of this letter of credit, we will honor the same by making payment at sight on the same day of presentation. Upon any draw of the letter of credit, unless otherwise agreed to by Tennessee Valley Authority, Applicant shall be obligated to replenish the amount of the letter of credit draw within twenty (20) days.

2. This letter of credit shall terminate upon the earliest to occur of (i) our receipt of a notice in the form of Annex 3 hereto signed by an authorized representative of Beneficiary, accompanied

by this letter of credit for cancellation, (ii) our close of business at our aforesaid office on the Expiration Date, or if the Expiration Date is not a Business Day, then on the succeeding Business Day. This letter of credit shall be surrendered to us by you upon the earlier of presentation or expiration.

3. It is a condition of the letter of credit that it shall be deemed to be automatically extended without amendment for periods of one (1) year from the present or any future expiration date, unless at least forty-five (45) days prior to any such expiration date we send you notice by registered mail, return receipt requested or courier service or hand delivery at the above address that we hereby elect not to consider this letter of credit extended for any such additional period.

4. This letter of credit is issued and subject to the International Standby Practices 1998 (ISP98).

5. This letter of credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1, 2 and 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as otherwise provided in this paragraph 5.

6. Communications with respect to this letter of credit shall be in writing and shall be addressed to us at the address referred to in paragraph 1 above, and shall specifically refer to this letter of credit no. _____.

Very truly yours,

[LOC Issuer]

Authorized signature

ANNEX 1
TO LETTER OF CREDIT NO. _____

Draft under Letter of Credit No. _____

[Month, Day , Year]

On Sight

Pay to Tennessee Valley Authority U.S. \$ _____ [not to exceed amount available to be drawn]
400 West Summit Hill Drive, WT 4C
Knoxville, TN 37902-1401

[insert any wire instructions]

For value received and charge to account of Letter of Credit No. _____ of

By: _____

Title: _____

ANNEX 2
TO LETTER OF CREDIT NO. _____

Drawing under Letter of Credit No. _____

The undersigned, a duly authorized representative of the **Tennessee Valley Authority**, a corporate instrumentality and agency of The United States of America ("Beneficiary"), hereby certifies on behalf of Beneficiary to _____ with reference to irrevocable standby Letter of Credit No. _____ (the "Letter of Credit") issued for the account of _____, (" X "), that:

- 1) [pursuant to the _____ Agreement between Beneficiary and X , as of the date hereof Beneficiary is entitled to draw under the Letter of Credit;]

--or--

[Beneficiary has received notice from the Issuing Bank pursuant to Section 3 of the Letter of Credit and, as such, as of the date hereto Beneficiary is entitled to draw under the Letter of Credit;]

- 2) by presenting this certificate and the accompanying sight draft, Beneficiary is requesting that payment in the amount of \$_____, as specified on said draft, be made under the Letter of Credit by wire transfer or deposit of funds into the account specified on said draft;
- 3) the amount specified on the sight draft accompanying this certificate does not exceed the amount to which Beneficiary is entitled to draft under said _____ Agreement.

In witness whereof, Beneficiary has caused this certificate to be duly executed and delivered by its duly authorized representative as of the date and year written below.

Date: _____

By: _____

Title: _____

ANNEX 3
TO LETTER OF CREDIT NO. _____

Notice of surrender of Letter of Credit No. _____

Date: _____

Attention: Letter of Credit Department

Re: Letter of Credit No. _____ issued for the account of _____ (Seller)

Ladies and Gentlemen:

We refer to your above-mentioned irrevocable standby Letter of Credit (the "Letter of Credit"). The undersigned hereby surrenders the Letter of Credit to you for cancellation as of the date hereof. No payment is demanded of you under this Letter of Credit in connection with this surrender.

Very truly yours,

By: _____

Title: _____

EXHIBIT E

INSURANCE

A. Seller Insurance Coverages. Seller shall maintain or cause to be maintained the types of insurance coverages described in this Part A, provided that Seller shall be required to maintain the insurance coverages described in this Part A only to the extent that such coverages are available on Commercially Reasonable terms in the commercial insurance markets. All insurance coverages described herein shall be placed with Acceptable Insurance Companies. An “Acceptable Insurance Company” means an insurance company that, at the applicable time, is legally permitted to write the applicable insurance coverage and that (i) has a Credit Rating of A- or better from Standard & Poor’s at such time or (ii) has an insurance company rating of A- or better from A.M. Best at such time.

1. Workers’ Compensation Insurance. Seller shall maintain or cause to be maintained workers’ compensation insurance in compliance with Applicable Law.

2. Commercial General Liability Insurance. Seller shall maintain or cause to be maintained commercial general liability insurance, including coverage for bodily injury, property damage, personal injury, death, premises/operations, explosion, collapse and underground hazards, broad form property damage and blanket contractual liability for written contracts, with primary coverage limits of not less than \$1,000,000 for injuries or death to one or more Persons or damage to Property per occurrence and an aggregate limit of not less than \$5,000,000.

3. Automobile Liability Insurance. Seller shall maintain or cause to be maintained automobile liability insurance for owned, non-owned and hired automobiles for both bodily injury and property damage and containing appropriate no-fault insurance provisions or other endorsements in accordance with Applicable Law, with limits of not less than \$1,000,000 per accident with respect to bodily injury, property damage or death.

4. All-Risk Property Insurance. Seller shall maintain or cause to be maintained all-risk property coverage for the Project with Commercially Reasonable limits, sub-limits and deductibles.

B. Seller Insurance General Terms. To the extent available on Commercially Reasonable terms in the commercial insurance markets:

1. Evidence of Coverage. Seller shall deliver to TVA certificates or other evidence of all insurance policies maintained (or caused to be maintained) by Seller within twenty (20) days after the Execution Date and each time thereafter when there is any renewal of such insurance policies.

2. Termination of Coverage. Seller shall provide TVA prior written notice of any cancellation or non-renewal of any insurance policy required to be maintained (or caused to be maintained) by Seller pursuant to this Exhibit E.

C. Self Insurance. Notwithstanding the foregoing, Seller may self-insure to meet the minimum insurance requirements of this Exhibit E to the extent it maintains a self-insurance program, provided that Seller's senior secured debt meets the ratings requirements applicable to a Qualified Bank and its self-insurance program meets the minimum insurance requirements of this Exhibit E. For any period of time that Seller's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, Seller shall comply with the insurance requirements applicable to it under this Exhibit E. In the event that Seller is permitted to self-insure pursuant to this section, it shall notify TVA that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in this Exhibit E.

EXHIBIT F

LEGALLY REQUIRED CLAUSES

The Parties shall comply with all Applicable Law. To the extent required by Applicable Law, the following clauses shall apply to the Parties' performance of the Agreement to which this Exhibit F is attached. References in this Exhibit F to "contract" refer to the Agreement to which Exhibit F is attached.

AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY

To the extent applicable, this contract incorporates by reference the Affirmative Action for Disabled Veterans and Veterans of the Vietnam-Era clause, 41 C.F.R. § 60-250.4; the Affirmative Action for Handicapped Workers clause, 41 C.F.R. § 60-741.4; the Equal Opportunity clause, 41 C.F.R. § 60-1.4; and the Discrimination on the Basis of Age clause, 18 C.F.R. § 1316.6; and all amendments thereto and all applicable regulations, rules, and orders issued thereunder. Seller complies with applicable regulatory requirements, including information reports and affirmative action programs.

BYRD RIDER

Lobbying. This contract is subject to the requirements of Public Law No. 101-121 (codified at 31 U.S.C. § 1352), which prohibits certain lobbying activities and requires disclosure of certain others, and TVA's implementing regulations published at 55 Fed. Reg. 6736 (codified at 18 C.F.R. § 1315).

A. Prohibition, Certification, and Disclosure

- (1) Appropriated Funds. Section 319 of Public Law No. 101-121 provides that none of the funds appropriated by any act of Congress may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with: (a) the awarding of any Federal contract; (b) the making of any Federal grant; (c) the making of any Federal loan; (d) the entering into of any cooperative agreement; or (e) the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) Certification. Seller, by signing this contract, certifies in accordance with Exhibit, "Certification for Contracts, Grants, Loans, and Cooperative Agreements," attached hereto and made a part hereof ("Certification"), that it has not violated the foregoing prohibition.

- (3) Other Than Appropriated Funds. Except as provided in subsection D, below, if Seller has paid or will pay any funds other than Federal appropriated funds to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this contract, Seller shall complete and submit to TVA Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (Copies of Standard Form-LLL may be obtained from the TVA representative for this contract.) The requirements of this subsection A(3) shall not apply to payments of reasonable compensation to regularly employed officers or employees. The term "regularly employed," with respect to an officer or employee of a person requesting or receiving a contract, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates TVA's consideration of such person for receipt of such contract.
- B. Updating. At the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in the Certification or, if applicable, Standard Form-LLL, Seller shall file with TVA an initial or new Standard Form-LLL with such new information or modifications as are necessary to correct any inaccuracies in the information originally declared and certified.
- C. Subcontractors. Seller shall include or cause to be included the form of the Certification in any subcontract exceeding \$100,000 at any tier. Seller shall promptly file with TVA each Standard Form-LLL provided by a subcontractor.
- D. Exceptions. The prohibition described in subsection A(1) above and the disclosure requirements in subsection A(3) do not apply in the case of (1) a payment of reasonable compensation made to an officer or employee of Seller to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection A; or (2) any reasonable payment to a person, or any payment or reasonable compensation to an officer or employee of Seller, if the payment is for professional or technical services rendered directly in the preparation or negotiation of this Agreement.
- E. Definitions. Terms not defined herein shall have the meanings ascribed to them in Public Law No. 101-121 and TVA's implementing regulations.
- F. Penalties. (1) Any person who makes an expenditure prohibited by Public Law No. 101-121 shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure; and (2) any person who fails to file or amend a certification required under subsection A(2) above or a disclosure required to be filed or amended under subsection A(3) above shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 and to such other remedies as may apply for each such failure.

BYRD RIDER EXHIBIT

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

EXHIBIT G-1

PROJECT DESCRIPTION

The Project comprises the Solar Asset and associated equipment and facilities, together known as **PROJECT NAME**, located in **COUNTY, STATE**, including the real property, fixtures, and land rights associated with the facility. The coordinate location of the Project is: Latitude **x°x'x"** and Longitude: **x°x'x"**.

The Solar Asset is a **TBD** MW solar photovoltaic generating facility.

The Solar Asset at all times will generate and deliver electric power and energy exclusively from solar energy by means of monocrystalline panels, polycrystalline panels, or thin film cells, which may be either ground- or structure-mounted. Unless approved in advance by TVA in writing, the Solar Asset will not generate or deliver electric power or energy by means of non-solar generation technologies.

The Project will be interconnected at the "Delivery Point," which is **DESCRIPTION OF INTERCONNECTION LOCATION**.

The Contract Output will be **TBD** MW. Whether the Project satisfies the Contract Output requirement will be determined by measuring the maximum instantaneous AC power output of the Project, using the Metering Equipment, at the high side of the Delivery Point transformer, net of any station service and transmission and distribution losses.

The NTP Deadline is **MONTH, DAY, YEAR** *[date will be at minimum twelve months earlier than the Expected Initial Delivery Date, unless otherwise agreed to by the Parties]*

The Expected Initial Delivery Date is **MONTH, DAY, YEAR**.

EXHIBIT G-2

PROJECT CHARACTERISTICS

[Include a general description of the Solar Asset's panels and inverters and the Project configuration.]

PROJECT LAYOUT

[Include a diagram or plat of the real property on which the Project will be situated, showing site boundaries, planned locations of key Project equipment and components, etc.]

SINGLE LINE DIAGRAM

[Include a simplified one-line diagram of the Project.]

EXHIBIT H

PROJECT DEVELOPMENT MILESTONE SCHEDULE

Milestone Description	Milestone Date
Completed and executed all Interconnection Studies, including System Impact Study and Facility Study	DATE
Executed all land options/fee purchase agreements to have sufficient control of the land to construct or cause to be constructed any facilities on the project site	DATE
Acquired all local, state, and federal required permits and regulatory approvals to construct the facility	DATE
Initiate all applicable NEPA, state, and local Environmental Permitting and Approvals	DATE
Provide, in P6 or other industry accepted schedule format, Engineering/Design schedule	DATE
Engineering/Design Start	DATE
All applicable NEPA, state, and local Environmental Permitting and Approvals are completed	DATE
NTP Request to TVA	DATE
All RFPs for major material acquisition, to include, but not limited to main power transformer, solar panels, inverters, racking and associated systems, tracking systems, and pilings have been issued	DATE
EPC contract(s) is executed	DATE
Engineering/Design finish (100% design)	DATE
Provide in P6 or other industry accepted schedule format, detailed construction schedule	DATE
Construction start	DATE
Provide dates that major materials, including, but not limited to, switch house, transformers, solar panels, inverters, racking and	DATE

associated systems, tracking systems, and piling

Ready for backfeed

DATE

Provide, in P6 or other industry accepted schedule format, the schedule for all commissioning requirements and testing, to include all requirements contained in TVA's OASIS commissioning requirements:

DATE

https://www.oasis.oati.com/woa/docs/TVA/TVAdocs/Interconnection_-_Commissioning_Checklist_and_Guidelines_-_v0.pdf

Commissioning and testing start

DATE

Expected Initial Delivery Date

DATE

EXHIBIT I

[FORM OF] CONSENT AND AGREEMENT

This Consent and Agreement (“Consent”), is made as of the following date: _____ (“Effective Date”) and, is among TENNESSEE VALLEY AUTHORITY, a corporate agency and instrumentality of the United States of America created by and existing under the Tennessee Valley Authority Act of 1933, as amended (“TVA”), [SELLER NAME] (“Seller”), and [BANK NAME], as collateral agent (in such capacity and together with its successors in such capacity, the “Collateral Agent”). The parties hereto are sometimes referred to herein as a “Party” or “Parties.”

The Seller is a party to that certain credit agreement, dated as of the date hereof, among the Seller, the Collateral Agent, the lenders, note holders, and issuing banks party thereto from time to time, and the other parties named therein (as amended, amended and restated, supplemented, or otherwise modified from time to time, the “Credit Agreement”), pursuant to which, among other things, subject to the terms therein, such lenders have committed to extend loans to the Seller and such issuing banks have committed to issue certain letters of credit for the account of the Seller.

The Seller and TVA are parties to a Power Purchase Agreement dated [Month, Day, Year] (as amended, amended and restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Assigned Agreement”). Unless defined otherwise, capitalized terms used in this Consent shall have the meanings assigned to them in the Assigned Agreement.

ARTICLE I: CONSENT TO ASSIGNMENT

Section 1.1 Consent to Assignment. The Seller gives notice to TVA of the collateral assignment by the Seller of all of its right, title, and interest in, to, and under (but not its obligations, liabilities, or duties with respect to) the Assigned Agreement, including, without limitation, the right to receive payment thereunder, under the terms of that certain security agreement, as amended, amended and restated, supplemented, or otherwise modified from time to time, between the Seller and the Collateral Agent (the “Security Agreement”), and TVA acknowledges receipt of such notice and irrevocably consents to such collateral assignment. TVA has no notice of, and has not consented to, any previous assignment or collateral assignment by the Seller of all or any part of its rights under the Assigned Agreement.

ARTICLE II: NOTICE AND CURE RIGHTS

Section 2.1 Notice to Collateral Agent. TVA shall, concurrently with the delivery to Seller of any notice of an Event of Default (“Default Notice”) or notice of early termination (“Termination Notice”) under the Assigned Agreement, provide a copy of such Default Notice or Termination Notice to Collateral Agent pursuant to Section 6.5 of this Consent. In addition, Seller shall provide a copy of the Default Notice or Termination Notice to Collateral Agent the next

Business Day after receipt from TVA, independent of any agreement of TVA to deliver such Default Notice or Termination Notice.

Section 2.2 Cure Period Available to Collateral Agent Prior to Declaration of Early Termination.

(i) Upon the occurrence of an Event of Default, subject to (i) the expiration of the relevant cure periods provided to Seller under the Assigned Agreement, and (ii) Section 2.1 above, TVA shall not declare an Early Termination Date pursuant to Section 9.4 of the Assigned Agreement unless it or the Seller provides Collateral Agent with Default Notice and affords Collateral Agent a Cure Period, as defined below, to cure the Event of Default.

(ii) For the purposes of this Agreement, “Cure Period” shall mean (i) with respect to a payment default as defined in Section 9.1(a) of the Assigned Agreement, ten (10) days in addition to the cure period provided to Seller in the Assigned Agreement; and (ii) with respect to all other Events of Default specified in Section 9.1 of the Assigned Agreement, thirty (30) days in addition to the cure period provided to Seller in the Assigned Agreement.

Section 2.3 Failure by TVA to Deliver Default Notice. If neither TVA nor Seller delivers a Default Notice to the Collateral Agent as provided in Section 2.1, the Collateral Agent’s applicable cure period shall begin on the date on which Default Notice is delivered to Collateral Agent by either TVA or Seller, whichever is delivered earliest. Except for a delay in the commencement of the cure period for the Collateral Agent and a corresponding delay in TVA’s ability to declare an Early Termination Date, failure of TVA to deliver any Default Notice shall not waive TVA’s right to take any action under the Assigned Agreement and will not subject TVA to any damages or liability for failure to provide such notice.

Section 2.4 Extension for Foreclosure. If possession of the Project is necessary for the Collateral Agent to cure an Event of Default and the Collateral Agent commences foreclosure proceedings against Seller within the Cure Period provided in Section 2.2(ii) above, the Collateral Agent shall, with TVA’s consent, be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed sixty (60) days; provided, however, that the Collateral Agent shall provide a written notice to TVA that it intends to commence foreclosure proceedings with respect to Seller within ten (10) days of receiving Default Notice from TVA or Seller, whichever is received first.

Section 2.5 Remedies for Event of Default and Supply Guarantee.

(i) It is understood and agreed that, notwithstanding the Collateral Agent’s right to cure Events of Default as set forth herein, TVA may elect to pursue one or more of the remedies available under Section 9.2(b) of the Assigned Agreement prior to the expiration of the Cure Period until such Event of Default is otherwise cured; provided that any declaration of an Early Termination Date provided in the Assigned Agreement shall be subject to the Collateral Agent’s applicable Cure Period in accordance with Section 2.2 above.

(ii) Neither the failure of the Seller to satisfy the Supply Guarantee provided for in Article VIII and Exhibit B of the Assigned Agreement nor payment of liquidated damages to TVA

pursuant to Section 8.1 of the Assigned Agreement shall constitute an Event of Default under Section 9.1 of the Assigned Agreement.

Section 2.6 Disconnection of Project or Curtailment of Deliveries. Nothing in this Consent Agreement shall limit TVA's ability to disconnect the project or curtail deliveries for safety, reliability, or any other reason provided for in Section 8.3 of the Assigned Agreement.

ARTICLE III: LIMITATION ON ASSIGNMENT

Section 3.1 TVA Consent Required. In order for the Collateral Agent or a transferee of, or purchaser from, the Collateral Agent (any such Person, an "Assuming Party") to succeed to Seller's interest in the Project or the Assigned Agreement as a result of foreclosure proceedings or other actions taken in connection with the Credit Agreement, the Assuming Party must first obtain TVA's consent pursuant to Section 11.2, regarding successors and assigns, of the Assigned Agreement.

Section 3.2 Limitation on Assignment. If the Assuming Party succeeds to the interests of the Seller after obtaining TVA's consent pursuant to Section 3.1 above, the Assuming Party shall assume liability for the Seller's obligations only to the extent such obligations are expressly set forth in the Assigned Agreement. Except to the extent that the Assuming Party expressly assumes the Seller's obligations under the Assigned Agreement, the Assuming Party shall not be liable for the performance or observance of any of the obligations or duties of the Seller under the Assigned Agreement and the Assuming Party will have no right to exercise the Seller's rights under the Assigned Agreement except for the cure rights described under Article II above.

ARTICLE IV: REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties. On the Effective Date, each Party represents and warrants to the other Parties that:

(i) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation;

(ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Consent;

(iii) the execution, delivery, and performance of this Consent are within its powers, have been duly authorized by all necessary action, and do not violate any Applicable Law;

(iv) it is not Bankrupt and there are no proceeding pending or being contemplated by it or, to its knowledge, threatened against it that would result in it being or becoming Bankrupt;

(v) it is acting for its own account, has made its own independent decision to enter into this Consent and as to whether this Consent is appropriate or proper for it based upon its own

judgment, is not relying upon the advice or recommendations of any other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Consent; and

(vi) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;

Section 4.2 Seller’s Right, Title, or Interest. Seller and Collateral Agent each recognizes and acknowledges that TVA makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Collateral Agent is responsible for satisfying itself as to the existence and extent of Seller’s right, title, and interest in the Assigned Agreement, and Collateral Agent releases TVA from any liability resulting from the assignment of the Assigned Agreement.

ARTICLE V: PAYMENTS, SETOFFS, AND DEDUCTIONS

Section 5.1 Payments. TVA shall, as of the date hereof, make all payments due to the Seller under the Assigned Agreement directly to [_____] for the benefit of the Collateral Agent and any other secured parties, to ABA No. [_____] , Account No. [_____] , or such other account as to which the Collateral Agent shall notify TVA in writing. Seller hereby irrevocably consents to any and all such payments being made in such manner. Each of Seller, TVA, and the Collateral Agent agrees that each such payment by TVA to such depository agent of the amount due to Seller from TVA under the Assigned Agreement shall satisfy TVA’s corresponding payment obligation under the Assigned Agreement.

Section 5.2 Setoffs and Deductions. Each of Seller and Collateral Agent agrees that TVA shall have the right to set off or deduct from payments due to Seller each and every amount due to TVA from Seller pursuant to Section 10.3 of the Assigned Agreement. Collateral Agent further agrees that it takes the assignment for security purposes of the Assigned Agreement subject to any defenses or causes of action TVA may have against Seller.

ARTICLE VI: MISCELLANEOUS

Section 6.1 Waiver. The non-exercise of, or delay in exercising, any power or right of any Party to this Consent does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the Party to be bound by the waiver.

Section 6.2 Choice of Law. This Consent shall be construed and interpreted in accordance with the Federal laws of the United States of America. Any legal action arising out of or related to this Consent shall be brought in the United States District Court for the Eastern District of Tennessee, and the Parties hereby waive any right to a jury trial in any such action. This Section

6.2 is not a "Disputes" clause within the meaning of the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613 ("CDA"), and this Consent is not subject to the provisions of the CDA.

Section 6.3 Successors and Assigns. No Party shall assign this Consent or its rights hereunder without the prior written consent of the other Parties, such consent not to be unreasonably withheld.

Section 6.4 Severability. In the event that any term, covenant, or condition of this Consent or the application of any such term, covenant, or condition shall be held invalid by any court or administrative body having jurisdiction, it is the intention of the Parties that in lieu of each such term, covenant, or condition that is invalid, the Parties shall negotiate a valid term, covenant, or condition as similar as possible to such invalid term, covenant, or condition. This Consent shall not otherwise be affected thereby and shall remain in full force and effect.

Section 6.5 Notices and Invoices. Except as otherwise expressly provided under this Consent, any notice or invoice provided for in this Consent must be in writing and shall be effective on the day on which it is actually received (provided that such day is a Business Day, otherwise it shall be deemed to be received on the first Business Day immediately following such day), in person by U.S. Mail or other nationally recognized delivery service, or by facsimile transmission. Notices and invoices sent to TVA or Seller shall be made at the addresses provided in the Cover Sheet to the Assigned Agreement. Notices and invoices sent to Collateral Agent shall be made at the address provided below:

For Collateral Agent
Mail Notices to: [Name]
 [Address]

Section 6.6 Costs and Expenses. Each Party shall bear and is responsible for its own costs (including attorney's fees) in connection with the negotiation, preparation, execution, completion, implementation, and ongoing administration of this Consent.

Section 6.7 Amendment. This Consent may be amended, changed, modified, or altered, provided that such amendment, change, modification, or alteration shall be in writing and signed by all Parties hereto.

Section 6.8 Counterparts. This Consent may be executed in more than one counterpart, each of which is signed by one or more of the Parties but all of which together shall constitute the same agreement.

Section 6.9 Confidentiality. Seller and Collateral Agent agree to treat this Consent as confidential and will not discuss the contents of this Consent or share this Consent with any other party without the prior written consent of TVA.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be duly executed as of the date first above written.

[SELLER]

By: _____

Name: _____

Title: _____

TENNESSEE VALLEY AUTHORITY

By: _____

Name: _____

Title: _____

Agreed and Accepted:

[BANK/COLLATERAL AGENT]

By: _____

Name: _____

Title: _____

EXHIBIT J

CONFIRMATION, ESTOPPEL AND AGREEMENT ([SELLER])

This CONFIRMATION, ESTOPPEL AND AGREEMENT (this "Agreement"), effective as of [_____] (the "Effective Date"), is entered into by and among Tennessee Valley Authority (together with its successors and permitted assigns, "TVA") and [NAME OF SELLER], a [type of entity] ("Seller"), for the benefit of [NAME OF FINANCING PARTY], a [type of entity] (together with its successors, the "Financing Party").

RECITALS

A. The Seller and TVA are parties to that certain Power Purchase Agreement, dated as of [_____] (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Assigned Agreement"), a copy of which is attached hereto as Exhibit A. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Assigned Agreement.

B. The Seller is a party to a [_____] transaction with the Financing Party (the "Financing Transaction"), pursuant to which, among other things, subject to the terms therein, the Financing Party will [*describe financing transaction*].

C. [If applicable: Pursuant to that certain Consent and Agreement (the "Consent Agreement") by and among TVA, Seller, and Financing Party dated as of [_____] , a copy of which is attached hereto as Exhibit B, TVA consented to a collateral assignment by the Seller to the Financing Party of all of Seller's right, title, and interest in, to and under the Assigned Agreement.]

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, and intending to be legally bound, the parties hereto hereby agree, as follows:

SECTION 1. REPRESENTATIONS AND WARRANTIES

TVA hereby represents and warrants that:

(a) each of the representations and warranties of TVA as set forth in Article XV of the Assigned Agreement are true and correct as of the Effective Date of this Agreement;

(b) the execution, delivery and performance by TVA of this Agreement has been duly authorized by all necessary corporate or other action on the part of TVA and does not require any approvals, filings with, or consents of any entity or person which have not previously been obtained or made;

- (c) the Assigned Agreement is in full force and effect;
- (d) to TVA's knowledge no default has occurred and is continuing under the Assigned Agreement;
- (e) no amounts are currently due from Seller to TVA under the Assigned Agreement and TVA is not aware of any existing claims for payment by TVA against Seller of any nature under the Assigned Agreement;
- (f) to date and to TVA's knowledge, the Seller has observed and performed all of the terms, covenants and conditions on its part to be observed and performed under the Assigned Agreement; and
- (g) attached hereto as Exhibit A is a true, correct, and complete copy of the Assigned Agreement, including all amendments, modifications, supplements and waivers with respect to the Assigned Agreement as of the Effective Date of this Agreement.

SECTION 2. TVA ACKNOWLEDGMENTS.

TVA acknowledges that:

- (a) all Performance Assurance requirements of the Seller required under the Assigned Agreement as of the Effective Date of this Agreement have been satisfied and are currently maintained in [FORM OF PERFORMANCE ASSURANCE: CASH OR LETTER OF CREDIT];
- (b) TVA issued the Seller a Notice to Proceed on [____], as such term is defined in Article III of the Assigned Agreement;
- (c) the Seller has satisfied all requirements under the Assigned Agreement to start delivering Energy Output; and
- (d) the Initial Delivery Date occurred on [____], as such term is defined in Article III of the Assigned Agreement.

SECTION 3. AMENDMENT

This Agreement may be modified only by a writing that is signed by all parties hereof.

SECTION 4. SEVERABILITY

If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provision of this Agreement and all other provisions of this Agreement will remain in full force and effect.

SECTION 5. GOVERNING LAW

THIS AGREEMENT SHALL BE GOVERNED BY, AND INTERPRETED AND CONSTRUED IN ACCORDANCE WITH APPLICABLE FEDERAL LAW, OR IF FEDERAL LAW PROVIDES NO RULE OF DECISION, THE LAWS OF THE STATE OF TENNESSEE, WITHOUT REGARD FOR TENNESSEE'S CHOICE OF LAW PROVISIONS. JURISDICTION AND VENUE FOR ANY SUCH DISPUTES WILL LIE IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE.

SECTION 6. COUNTERPARTS

This Agreement may be executed in more than one counterpart, each of which is signed by one or more of the parties, but all of which together shall constitute the same agreement.

TENNESSEE VALLEY AUTHORITY

By: _____

Name: _____

Title: _____

EXHIBIT K
INTERCONNECTION DIRECT ASSIGNMENT
COST ADJUSTER

When the Final IDA Cost, defined below, is known, the IDA Cost Adjuster shall be calculated as follows:

Definitions:

IDA Cost = the cost of the direct assignment facilities to be constructed on the TVA Transmission System or LPC distribution system, which Seller is obligated to pay to TVA under the Interconnection Agreement to be entered into between Seller and TVA.

Estimated IDA Cost = the estimate of IDA Cost determined by TVA as of the Effective Date of this Agreement.

Final IDA Cost = IDA Cost as determined by the Final Adjustment as described in the Interconnection Agreement.

CO = Contract Output

Adjustment Factor = 0.0000371

If the Final IDA Cost is equal to the Estimated IDA Cost, the IDA Cost Adjuster will be zero.

If the Final IDA Cost is not equal to the Estimated IDA Cost, and such difference is not due to work scope or schedule changes caused or requested by Seller, then the IDA Cost Adjuster is equal to the difference between the Final IDA Cost and the Estimated IDA Cost, multiplied by the Adjustment Factor, divided by the Forecasted Generation. This is reflected in the equation below. The final value will be in \$/MWh and may be a positive or negative number.

$$\text{IDA Cost Adjuster} = \frac{\text{Adjustment Factor} * (\text{Final IDA Cost} - \text{Estimated IDA Cost})}{CO}$$