

RENEWABLE ENERGY POWER PURCHASE AGREEMENT

BY AND BETWEEN

GAINESVILLE REGIONAL UTILITIES

AND

FL SOLAR 6, LLC

DATED July 21, 2020

TABLE OF CONTENTS

ARTICLE I DEFINITIONS 1

 1.1 Defined Terms. 1

 1.2 Interpretation. 14

 1.3 Transmission of Energy. 14

ARTICLE II PURCHASE AND SALE TRANSACTION, FACILITY DESCRIPTION..... 15

 2.1 Facility Capacity; Net Energy. 15

 2.2 Facility Description and Generation Capabilities. 15

 2.3 Facility Specifications. 16

 2.4 Maintenance of Facility's Status. 17

ARTICLE III TERM, PURCHASE AND SALE 18

 3.1 Term. 18

 3.2 Purchase and Sale; Facility Testing. 18

 3.3 Contract Price; Test Energy Rate. 19

 3.4 Generator Interconnection and Transmission Service. 19

 3.5 Contract Quantity and Guaranteed Energy Production. 20

 3.6 Facility Accreditation. 20

 3.7 Federal Tax Incentives. 21

 3.8 Performance Excuses. 21

 3.9 Curtailment Instruction. 21

 3.10 Replacement Energy. 22

 3.11 Purchase of Facility. 23

ARTICLE IV MILESTONES 25

 4.1 Milestones. 25

 4.2 Notice of Milestone Completion, Extension Period. 27

 4.3 [RESERVED]. 28

 4.4 Liquidated Damages. 28

 4.5 Early Completion. 29

ARTICLE V SELLER OBLIGATIONS 29

 5.1 Design, Construction and Operation of the Facility. 29

 5.2 Additional Obligations of Seller. 30

 5.3 Specific Obligations Related to Construction. 34

 5.4 Buyer Right to Alternative Agreement. 34

 5.5 Buyer Obligations; Distribution and Transmission Service. 35

 5.6 Buyer Cooperation. 35

 5.7 Standard of Care. 35

ARTICLE VI ELECTRICITY PRODUCTION AND PLANT MAINTENANCE	35
6.1 Forecasting and Availability.	35
6.2 Plant Maintenance.....	37
6.3 Communication.....	37
6.4 Seller's Plant Personnel.....	37
ARTICLE VII METERING	38
7.1 Metering Equipment.	38
7.2 Measurements.	38
7.3 Testing and Correction.....	38
7.4 Maintenance and Records.	39
ARTICLE VIII BILLING AND PAYMENT	39
8.1 Billing and Payment.....	39
ARTICLE IX INSURANCE/CREDIT AND COLLATERAL REQUIREMENTS	40
9.1 Insurance.....	40
9.2 Grant of Security Interest/Remedies.	41
9.3 Development Period Security.	41
9.4 Delivery Term Security.....	42
ARTICLE X FORCE MAJEURE	43
10.1 Force Majeure.	43
10.2 Remedial Action.	43
10.3 Exclusions from Definition of Force Majeure.	44
10.4 Notice.....	44
10.5 Termination.....	44
ARTICLE XI DEFAULT, TERMINATION, REMEDIES	44
11.1 Events of Default.	44
11.2 Termination.....	46
11.3 Buyer's Remedies upon Termination (No Seller Default) prior to the Commercial Operation Date. 47	47
11.4 Buyer's Remedies upon Seller Event of Default.....	47
11.5 Seller's Remedies upon a Buyer Default and Termination.	47
11.6 Acceptability of Liquidated Damages.....	48
11.7 Payment of Termination Payment.....	48
11.8 Use and Return of Performance Assurance.	48
11.9 LIMITATION OF LIABILITY.	48
ARTICLE XII INDEMNIFICATION	49
12.1 General.....	49
12.2 Claims Resolution.....	49

ARTICLE XIII REPRESENTATIONS, WARRANTIES, COVENANTS	50
13.1 Mutual Representations and Warranties.	50
13.2 Seller's Representations and Warranties.	50
13.3 No implied Warranties.	51
ARTICLE XIV DISPUTE RESOLUTION	51
14.1 General.	51
14.2 Informal Resolution.	51
14.3 Litigation.....	51
14.4 Technical Dispute Resolution Procedures.	52
ARTICLE XV MISCELLANEOUS	52
15.1 Assignment.	52
15.2 Notices.	53
15.3 No Third-Party Beneficiary.	54
15.4 No Dedication.	54
15.5 Integration; Amendment.	55
15.6 Governing Law	55
15.7 Relationship of Parties.	55
15.8 Good Faith and Fair Dealing; Further Assurances.....	55
15.9 Severability.	56
15.10 Forward Contract.	56
15.11 Assent Not Waiver of Future Breach.....	56
15.12 Damage to Facility. Condemnation.	56
15.13 Trade Secrets; Public Records.	57
15.14 Appropriation; Availability of Funds.....	58
15.15 Goodwill and Publicity.	58
15.16 Community Outreach.....	59
15.17 Survival.....	59
15.18 Limitation of Duty to Buy.....	59
15.19 Change in Law.	59
15.20 Mobile-Sierra.	60
15.21 Service Contract.....	60

RENEWABLE ENERGY POWER PURCHASE AGREEMENT

This RENEWABLE ENERGY POWER PURCHASE AGREEMENT ("Agreement") is made and entered into this 21 day of July, 2020 (the "Effective Date"), by and between Gainesville Regional Utilities, an enterprise fund of the City of Gainesville, Florida, organized and existing under the laws of the State of Florida ("Buyer"), and FL Solar 6, LLC, a limited liability company organized and existing under the laws of the State of Delaware ("Seller"). Seller and Buyer are sometimes hereinafter referred to collectively as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, Buyer issued its Invitation to Negotiate (ITN) for Procurement of Solar Photovoltaic (PV) Renewable Energy, Solicitation No. 2019-070, Issue Date: May 31, 2019 (as revised and supplemented the "ITN");

WHEREAS, Seller, through its parent company, submitted a proposal and supplemental proposal in connection with the ITN and was selected by Buyer to negotiate the terms and conditions of an agreement for the generation, transmission, delivery and sale to Buyer of renewable energy, environmental attributes and capacity attributes produced at a photovoltaic solar electric generating facility to be developed, financed, constructed, owned and operated by Seller on property in Alachua County, Florida controlled by Seller and described in Attachment A-2;

WHEREAS, Seller intends, at its sole cost and expense, to develop, design, permit, finance, equip, construct, commission, own, operate and maintain a photovoltaic solar electric generating facility with a total rated net electric capacity of 50 MW-AC at the Delivery Point and a 12 MW/24 MWh battery energy storage system, as described in more detail in Attachment A-1;

WHEREAS, Buyer is willing to purchase and Seller is willing to sell the net energy, environmental attributes and capacity attributes of the photovoltaic solar electric generating facility subject to the terms and conditions and at the prices set forth in this Agreement; and

WHEREAS, Seller will enter into a separate agreement with the Interconnection Utility necessary for generator interconnection service, pursuant to which Seller shall assume contractual responsibility for making and maintaining any and all interconnection arrangements for delivery of the net photovoltaic solar energy generated by the facility to Buyer at the Delivery Point.

NOW THEREFORE, in consideration of the promises, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 **Defined Terms.** The capitalized terms listed in this Section 1.1 shall have the meanings set forth below. Other terms used in this Agreement but not listed in this Section 1.1 shall have the meaning as commonly used in the English language and, as applicable, in Prudent Utility Practice.

"Abandon" means (i) with respect to the construction of the Facility, the cessation of construction of the Facility by the Construction Contractor for more than thirty (30) consecutive days for reasons other than an event of Force Majeure or Buyer interference, and (ii) at any time during the term of this Agreement,

the loss or relinquishment of control or possession of the Facility and/or cessation of operations of or at the Facility by Seller except as expressly permitted herein.

"AC" means alternating current.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person, and "Control" means with respect to any Person, the direct or indirect power, whether by contract, through the ownership of capital stock or other equity interests, or otherwise, to elect a majority of such Person's board of directors or similar governing or management body, or to direct or cause the direction of the management, policies or operations of such Person.

"Agreement" is defined in the first paragraph.

"Alternative Agreement" means an energy purchase and sale agreement between Buyer and Seller containing the same price, delivery term, and other terms and conditions as contained in this Agreement, but with modifications as may be necessary and appropriate to reflect the development or operational status of the Facility, the dates by which actions are to be taken by the Parties, and similar matters, in each case, at the time the such agreement is entered.

"Annual Payment Threshold" is defined in Section 3.9(b).

"Applicable Program" means the Green-e Energy National Standard Version 3.3, or its successor or such other regional, state, federal, international or foreign (i) renewable portfolio standards, (ii) renewable energy, alternate energy, emissions reduction or product reporting rights programs, protocols or organizations adopted by a Governmental Authority, or (iii) other similar programs with respect to which there exists a market, registry, certification, recording, Tracking System and/or reporting program for Environmental Attributes, including any legislation or regulation concerned with renewable energy, greenhouse gas emissions, oxides of nitrogen, sulfur, or carbon, with particulate matter, soot, or mercury, or laws or regulations involving or administered by an administrator, or under any present or future regional, state, federal, international or foreign RECs, Environmental Attributes or emissions trading program as the Parties may select upon mutual written agreement.

"Attachments" mean the attachments, schedules and exhibits that are appended hereto and are hereby incorporated by reference and made part of this Agreement. At the Effective Date, which include:

" <u>Attachment A-1</u> "	Description of Facility
" <u>Attachment A-2</u> "	Description of Site
" <u>Attachment A-3</u> "	Description of Delivery Point and One-Line Diagram
" <u>Attachment B</u> "	Schedule of Contract Price Rates
" <u>Attachment C</u> "	Net Energy Delivery Requirements – Contract Quantity
" <u>Attachment D</u> "	Insurance Requirements
" <u>Attachment E</u> "	Form of Parent Guaranty
" <u>Attachment F-1</u> "	Form of Letter of Credit
" <u>Attachment F-2</u> "	Form of Surety Bond
" <u>Attachment G</u> "	Form of Status Report
" <u>Attachment H</u> "	Form of Environmental Attributes Bill of Sale
" <u>Attachment I</u> "	Indicative Value of Facility - Option Price
" <u>Attachment J</u> "	Example Calculation - Ramp Rate Allotment (Illustration Only)

" <u>Attachment K-1</u> "	Example calculation - Ramp Rate Exceedance Deposit (Illustration Only)
" <u>Attachment K-2</u> "	Example calculation - Curtailment Impact on Contract Quantity and Guaranteed Energy Production (Illustration Only)
" <u>Attachment L</u> "	Technical Parameters and Operating Procedures
" <u>Attachment M</u> "	Form of Lender Consent
" <u>Attachment N</u> "	Milestone Schedule, Required Milestones
" <u>Attachment O</u> "	Community Outreach Activities

"Bankrupt" means, with respect to a Party or any Affiliate of such Party that is acting as its credit support provider, that such Party or Affiliate: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, liquidation, dissolution, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) has been adjudicated bankrupt or has filed a petition or an answer seeking an arrangement with creditors, (vi) has taken advantage of any bankruptcy or insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceedings, (vii) becomes subject to an order, judgment or decree for relief, entered in an involuntary case, by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) days, (viii) fails to remove an involuntary petition in bankruptcy filed against it within sixty (60) days of the filing thereof, or (ix) becomes subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

"Battery Energy Storage System" or "BESS" means the battery energy storage system forming part of the Facility as described in Attachment A-1, together with all other equipment, hardware, software, components, systems, devices, and associated appurtenances owned, controlled, operated, maintained and managed by Seller in connection with or to facilitate the storage and delivery by Seller to Buyer of Net Energy produced by the Facility which is stored for delivery to Buyer hereunder.

"BESS Roundtrip Efficiency" means the actual efficiency of the BESS, which will be determined each Contract Year through an annual BESS efficiency test in accordance with the Operating Procedures.

"Business Day" means any day other than Saturday, Sunday, a Federal Reserve Bank holiday or any day established by the City of Gainesville as a holiday or non-working day for employees. A Business Day commences at 8:00 a.m. and closes at 5:00 p.m. Eastern Prevailing Time.

"Buyer" is defined in the first paragraph.

"Buyer Indemnities" is defined in Section 12.1(a).

"Buyer Interconnection Facilities" means all facilities and equipment necessary to receive and take the Facility Net Energy output at and from the Delivery Point, including any necessary modification, additions or upgrades to such facilities or the Transmission System.

"Buyer Purchase Damages" means the discounted value (discounted at the Interest Rate) of the positive difference, if any, of: (i) all dollar amounts that Buyer would, in accordance with the terms and conditions hereof, be expected to pay at the then prevailing market conditions to buy from a third party a product comparable to the Net Energy, Environmental Attributes and Capacity Attributes being purchased by Buyer under this Agreement through the remaining Term; plus (ii) all incremental costs over and above those that Buyer would otherwise incur; provided, that such costs are quantifiable and directly related to the termination of this Agreement; less (iii) all dollar amounts Buyer would have been expected to pay to Seller for the Net Energy, Environmental Attributes and Capacity Attributes under this Agreement through the remainder of the Term.

"Buyer's Meter(s)" is defined in Section 7.1.

"Calendar Year" means the period from January 1 through December 31.

"Capacity Attributes" means all ancillary characteristics, certificates, tags, products, services, capabilities or attributes which are or can be produced by or are associated with the capacity of the Facility to produce Energy or ancillary services at any time during the Term, excluding Energy, Environmental Attributes and Tax Attributes, existing now or in the future associated with the construction, ownership or operation of the Facility.

"Claims" is defined in Section 12.1(a).

"Commercially Reasonable" or "Commercially Reasonable Efforts" means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake to accomplish its required performance under this Agreement while protecting its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with applicable Laws and Prudent Utility Practice including electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. "Commercially Reasonable" or "Commercially Reasonable Efforts" shall be reviewed and determined based upon the facts and circumstances known, or which should have been known with the exercise of reasonable efforts, at the time that a sale, purchase, decision or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

"Commercial Operation" means all of the following conditions for Commercial Operation have been satisfied:

- (a) all Required Milestones and Interim Milestones have been satisfied;
- (b) Seller has successfully completed the commissioning, start-up and testing of the Facility, including Seller Interconnection Facilities, that is required under the Facility's applicable Permits, Site requirements, manufacturers' warranties, the Interconnection Agreement and any other Project Contract, and any other prerequisite testing for the commencement of generation, storage, transmission, delivery and sale of Net Energy on a safe, continuous basis at the Facility Rating, and Seller has provided documentation of such successful testing to the satisfaction of Buyer;
- (c) the Facility has achieved initial synchronization with the Transmission System in compliance with the requirements of the Interconnection Agreement and the System Operator, and has demonstrated to Buyer's satisfaction the reliability of its communications systems and communication with Buyer;
- (d) the certification by a qualified independent professional engineer registered in the state of Florida has been obtained by Seller and delivered to Buyer certifying that (i) the Facility has been completed in all material respects (excepting punch list items that do not materially and adversely affect the ability of the Facility to fully, safely and reliably operate as intended) in accordance with this Agreement and the Interconnection Agreement, (ii) all required Interconnection Facilities have been constructed and installed, (iii) all required interconnection tests have been completed and the Facility is physically interconnected with the Transmission System in conformance with the Interconnection Agreement and is able to generate and deliver Net Energy, Environmental Attributes and Capacity Attributes in accordance with the requirements of this Agreement, (iv) the Facility is capable of operating at the Facility Rating without experiencing any abnormal or unsafe operating conditions or creating any such conditions on the Transmission System, (v) the Facility has a designed generating capability that does not exceed the Facility Rating, and (vi) the Facility is capable of Commercial Operation;

(e) all arrangements for the supply of required electric services and any other utility or governmental services to the Facility and Site have been completed by Seller, such services are available in accordance with the terms of such arrangements and the service providers' obligations are in full force and effect;

(f) all policies of insurance and Delivery Term Security which Seller is required to obtain and maintain have been obtained by Seller and comply with the requirements of this Agreement; and

(g) Seller has submitted to Buyer a certificate of an officer of Seller knowledgeable about the development, design, engineering, construction and testing of the Facility stating that, to the best knowledge of such officer after due inquiry, all Permits, consents, licenses, approvals, and authorizations required to be obtained by Seller from any Governmental Authority or third party to construct and to operate the Facility fully, safely and reliably and in compliance with applicable Laws, Permits and the requirements of this Agreement have been obtained and are in full force and effect, and that Seller is in compliance with the terms and conditions of this Agreement and each Project Contract in all material respects.

"Commercial Operation Date" or "COD" means the Business Day following the Business Day on which all of the conditions for Commercial Operation have been satisfied.

"Construction Contract" means, individually or collectively as the context requires, the relevant engineering, design-build, construction management, construction and/or balance of plant agreements for design, engineering, equipping, construction, interconnection, commissioning, start-up and testing of the Facility to be entered into by and between Seller and the Construction Contractor.

"Construction Contractor" means an engineering, procurement, and construction contractor, design-builder, construction manager or, if Seller is not utilizing any such contractor, the entity having lead responsibility for the management of overall procurement, equipping and construction activities for the Facility, selected by Seller, which contractor shall obtain and maintain all licenses, registrations and certificates required by applicable Law to perform its obligations under the Construction Contract and have substantial experience in the engineering, procurement, and construction of power plants of the same type of facility as the Facility.

"Consulting Engineer" is defined in Section 14.4(b).

"Contract Price" means the fixed price (which shall not escalate over the Term) in United States dollars (\$US) to be paid by Buyer to Seller for the purchase of the Net Energy, as set forth in Attachment B.

"Contract Quantity" is defined in Section 3.5(a).

"Contract Year" means a Calendar Year except that (i) the first Contract Year (Contract Year 1) shall commence on the Commercial Operation Date and end on December 31 of the year during which the Commercial Operation Date occurs, and (ii) the last Contract Year shall commence on January 1 of the Calendar Year immediately following the last Contract Year and end on the day that is one day prior to the last anniversary of the Commercial Operation Date.

"Cure Period" is defined in Section 11.1(b).

"Curtailed Compensation" is defined in Section 3.9(c).

"Curtailed Credit" is defined in Section 3.9(c)(i)(B).

"DC" means direct current.

"Default Rate" is defined in Section 8.1(d).

"Delay Damages" means an amount equal to \$68.49/MW per day.

"Delivery Point" means the point at which the Facility is connected to the Transmission System at the 138 kV revenue meter inside the GRU Parker Road Substation, at the high side bushing of the Seller-provided step-up transformer.

"Delivery Term" means the period of time commencing upon the Commercial Operation Date and terminating at the expiration or earlier termination of the Term.

"Delivery Term Security" means a form of security posted by Seller in favor of and for the benefit of Buyer in order to secure Seller's obligations hereunder, on and after the Commercial Operation of the Facility, in an amount equal to \$25,000/MW, in the form of one or more of the following: (i) a Letter of Credit, (ii) a cash deposit, (iii) a Parent Guaranty, (iv) a Surety Bond, or (v) such other form of credit support acceptable to Buyer in its absolute discretion, all of which shall be subject to the terms set forth in Section 9.4.

"Development Period Security" means a form of security posted no later than thirty (30) calendar days after the Effective Date by Seller in favor of and for the benefit of Buyer in order to secure Seller's obligations hereunder prior to the Commercial Operation of the Facility, in an amount equal to \$25,000/MW, in the form of one or more of the following: (i) a Letter of Credit, (ii) a cash deposit, (iii) a Parent Guaranty, (iv) a Surety Bond, or (v) such other form of credit support acceptable to Buyer in its absolute discretion, all of which shall be subject to the terms set forth in Section 9.3.

"Dispatch Down" means any reduction or cessation of Net Energy generation by the Facility in response to an order or instruction by or direct action taken by the Buyer consistent with applicable provisions of the Operating Procedures or by System Operator, including System Operator Instructions, that does not arise out of, relate to, result from or address (i) a breach, failure, negligent act or omission, or willful misconduct involving Seller or Persons acting on its behalf or under its control; (ii) an event of Force Majeure; (iii) an Emergency Condition; (iv) scheduled maintenance or unscheduled maintenance of the Transmission System; or (v) a curtailment in accordance with Seller's obligations under the Interconnection Agreement.

"Distribution System" means GRU's distribution system consisting of electric lines, electric plant, transformers and switchgear used for conveying electricity to ultimate consumers, but not including any part of the Transmission System.

"Effective Date" is defined in the first paragraph.

"Emergency" means any occurrence, condition or situation requiring actions or cessation of actions that are reasonably necessary in order to (i) comply with the NERC's reliability standards or any other applicable rule, regulation or Law, (ii) preserve public health and safety, (iii) limit or prevent damage, or (iv) expedite restoration of service.

"Emergency Condition" means (i) any urgent, abnormal, dangerous, and/or public safety condition that is existing or is imminently likely to result in material loss or damage to the Facility or the Transmission System, disruption of generation by the Facility, disruption of service on the Transmission System, and/or endangerment to human life or public safety; and, (ii) any circumstance that requires action by the System Operator to comply with standing NERC reliability requirements, including actions to respond to, prevent, limit, or manage material loss or damage to the Facility, the Transmission System and/or Distribution System, disruption of generation by the Facility, disruption of service on the Transmission System and/or Distribution System, and/or endangerment to human life or public safety. An Emergency Condition will excuse Seller's performance of obligations hereunder only if such condition is not due to the breach, negligence, willful misconduct, and/or failure to perform by Seller or its Affiliates, contractors, vendors and agents as required under this Agreement and/or the Interconnection Agreement, including, without limitation, failure to perform in accordance with Prudent Utility Practice.

"Energy" means the amount of electrical energy (including capacity, ancillary services associated with such electrical energy and capacity, and all current and future defined characteristics that count toward resource adequacy or reserve requirements) either used or generated over a period of time, expressed in terms of kilowatt-hour (kWh) or megawatt-hour (MWh) and produced by a photovoltaic solar power plant. The term Energy shall exclude Environmental Attributes and any and all state and federal Tax Attributes which are or will be generated or earned by the Facility.

"Environmental Attributes" means any and all regulatory credit or market value accrued as the result of generating solar energy, including but not limited to renewable energy credits, certificates, RECs, carbon offsets, SO₂ and NO_x emission offsets, and any other environmental benefits, reductions, offsets, allowances, certificates, or green tags resulting from the generation of solar energy or the avoidance of the emissions of any gas, chemical or other substance to the air attributable to the electricity generated by the Facility. For the avoidance of doubt, "Environmental Attributes" excludes Tax Attributes.

"Environmental Liability" means all loss, damage, cost, charge, fine, penalty, assessment, surcharge, expense, liability and other claims, including court costs and reasonable attorney fees, arising out of or relating to the existence at, on, above, below or near the Facility of any Hazardous Substance.

"Estimation Methodology" is defined in Section 3.9(c)(ii).

"Event of Default" means any of the events, occurrences, acts, omissions, failures, conditions or circumstances listed in Section 11.1.

"Excess Delivery" is defined in Section 3.5(a).

"Excess Delivery Liquidated Damages" is defined in Section 3.5(a).

"Excusable Delay" means (A) with respect to Seller, a delay prior to the Commercial Operation Date resulting from any of the following provided Seller has provided prompt notice to Buyer and worked diligently to resolve the delay: (i) an event of Force Majeure, (ii) a delay caused solely by the negligence, willful misconduct or material breach of this Agreement by Buyer, (iii) the inability of Seller, notwithstanding diligent Commercially Reasonable Efforts, to obtain all Permits necessary for the construction and operation of the Facility for the generation, storage, delivery and sale of Net Energy by the time required to satisfy applicable Milestones; or (iv) a delay in the Interconnecting Utility's completion of the Buyer Interconnection Facilities by the date that is sixty (60) days prior to the Scheduled Commercial Operation Date unless Seller or Affiliates or other Persons acting for it or on its behalf or under its control directly or indirectly has caused such delay; and (B) with respect to Buyer, a delay prior to the Commercial Operation Date resulting from any of the following: (i) an event of Force Majeure, (ii) a delay caused solely by the negligence, willful misconduct or material breach of this Agreement by Seller or any Construction Contractor or vendor of Seller, (iii) the inability of Buyer or the Interconnecting Utility, notwithstanding diligent Commercially Reasonable Efforts, to obtain all information, data, documents, consents, approvals and authorizations necessary for the design, construction, commissioning, start-up and testing of the Buyer Interconnection Facilities or the synchronization of the Facility; or (iv) a delay by Seller or any Construction Contractor in the completion of the Seller Interconnection Facilities by the date that is sixty (60) days prior to the Scheduled Commercial Operation Date.

"Extension Payments" is defined in Section 4.2(c).

"Extension Period" is defined in Section 4.2(c).

"Facility" means the combined and integrated ground-mounted photovoltaic solar power plant having a Facility Rating of 50 MW-AC and BESS located on the Site and developed, permitted, financed, constructed and operated in accordance with this Agreement, together with all equipment used to produce, store and deliver the electric energy generated at such solar power plant under this Agreement, including all photovoltaic solar panels, inverters, isolation transformers, tracking systems, batteries, buildings, structures, improvements, facilities and appurtenances owned, leased, operated or controlled by Seller as

necessary for Seller to connect to the Delivery Point and to produce, store, deliver and furnish the Net Energy being sold under this Agreement, and all equipment that is owned, leased operated or controlled by Seller required for parallel operation with the Transmission System.

"Facility Debt" means the obligations of Seller and its Affiliates to any Financing Party pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing.

"Facility Rating" means the output potential the Facility can produce and deliver to the Delivery Point under specified conditions, expressed in kW-AC or MW-AC, which shall be 50 MW-AC regardless whether Net Energy is delivered directly from the photovoltaic solar electric generating system and/or by discharge of the BESS.

"Fair Market Value" means the price that, as of the date Buyer exercises the option or right of first offer granted by Seller to Buyer hereunder to purchase all or substantially all of the assets, properties, rights and interests comprising the Facility and primarily used or held for use to generate, store, transmit, deliver and furnish Net Energy, Environmental Attributes and Capacity Attributes and otherwise comply with the Seller's obligations, covenants and duties hereunder, would be paid in an arm's length, free market transaction, in cash, between an informed willing seller and an informed willing buyer neither of whom is under compulsion to complete the transaction, taking into account, factors including the age, technology, condition and performance of the Facility, market conditions and advances in solar technology and storage technology.

"FERC" means the Federal Energy Regulatory Commission.

"Financing Documents" means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements and other documents relating to the development, bridge, construction and/or permanent debt financing for the Facility, including any credit enhancement, credit support, working capital financing, tax equity financing or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time by and at the discretion of Seller and/or its affiliates in connection with Financing Transactions for the development, construction, ownership, leasing, operation or maintenance of the Facility.

"Financing Party" means any lender(s) or Tax Equity Investors providing financing or refinancing in connection with a Financing Transaction, and any successor(s) or assigns thereto, collectively.

"Financing Transaction" means a transaction (including a Sale Leaseback Financing) between Seller or an upstream equity owner of Seller with a Financing Party for the financing or refinancing for the development, construction, ownership, leasing, operation or maintenance of the Facility consistent with this Agreement.

"Fitch" means Fitch Ratings Ltd. or any successor thereto.

"Force Majeure" is defined in Section 10.1.

"Funding Default" is defined in Section 15.14.

"Governmental Authority" means the United States of America, or any state or any political subdivision thereof, including any municipality, township or county, and any domestic entity or body exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing, any court of competent jurisdiction, or commission, department, agency or governmental or regulatory authority or instrumentality or authorized arbitral body.

"GRU" means Gainesville Regional Utility, an enterprise fund of the City of Gainesville, Florida.

"Guaranteed Energy Production" is defined in Section 3.5(a).

"Hazardous Substance" means any chemical, waste, material, or other substance, now or hereafter (i) which is defined as or included in the definition of "hazardous substances," "hazardous wastes," "extremely hazardous wastes," "toxic substances," "regulated substances," or words of similar import under any Laws, (ii) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (iii) exposure to which is prohibited, restricted, limited or regulated by any Governmental Authority, (iv) the storage, use, handling, processing, transport, disposal or release of which is restricted or regulated by any Governmental Authority, or (v) for which remediation or cleanup is required by applicable Laws or any Governmental Authority.

"Initial Term" is defined in Section 3.1(a).

"Interconnecting Utility" means that utility providing interconnection service for the Facility to the Transmission System of that utility.

"Interconnection Agreement" means an agreement between the Interconnecting Utility providing interconnection service for the Facility to the Transmission System, as the same may be amended from time to time.

"Interconnection Facilities" means the Seller Interconnection Facilities and the Buyer Interconnection Facilities.

"Interest Rate" means the lesser of (i) **two hundred (200)** basis points above the per annum "Prime Rate" reported daily in The Wall Street Journal, or (ii) the maximum rate permitted by applicable law.

"Interim Milestones" means the Milestones identified as "Interim Milestones" in Section 4.1(d).

"ITN" is defined in the recitals.

"Law" means, with respect to any Person, the Site, or the Facility, all laws, statutes, codes, acts, treaties, ordinances, Permits, orders, judgments, writs, decrees, injunctions, rules and regulations of all regulatory authorities and other Governmental Authorities with competent jurisdiction, in each case applicable to or binding upon such Person, the Site or the Facility (as the case may be).

"Letter(s) of Credit" means one or more irrevocable, standby letters of credit issued by a Qualified Institution, the form and substance of which is substantially similar to the form attached hereto as Attachment F-1 and acceptable to Buyer.

"Maintenance Outage" means the temporary operational removal of the Facility from service to perform work on specific components of the Facility, at a time when the Facility must be removed from service before the next Scheduled Outage in the interest of safety or the prevention of injury or damage to or undue wear and tear on the Facility or any component.

"Major Equipment" means all solar photovoltaic modules, trackers and inverters, transformers and BESS required for the Facility to achieve Commercial Operation and to generate, store, transmit, deliver and furnish Net Energy.

"Milestone Deadline" means the deadline for performance of each Milestone provided in Attachment N.

"Milestones" means the Required Milestones and the Interim Milestones.

"Monthly Ramp Rate Exceedances" is defined in Section 2.3(b)(iii).

"Moody's" means Moody's Investor Service, Inc. or any successor thereto.

"MW" means megawatt-AC.

"MWh" means megawatt-hour.

"NERC" means the North American Electric Reliability Corporation, and includes for purposes of this Agreement, any applicable regional entity with delegated authority from NERC, such as the SERC Reliability Corporation.

"Net Energy" means, for the period being considered, the total amount of Energy generated by the Facility and actually delivered to the Delivery Point; Net Energy does not include any Energy generated by the Facility that is consumed for the operation of the Facility or any losses (including losses due to storage, transmission or transformation) in connection with delivery up to the Delivery Point, as measured according to the metering provisions in Article VII.

"Notice of Commercial Operation" is defined in Section 4.2(a).

"Notice of Interest" is defined in Section 3.11(b).

"Offer Notice" is defined in Section 3.11(b).

"Operating Procedures" means the technical parameters and operating procedures to be agreed upon by the Parties in accordance with Section 5.1(i).

"Parent Guaranty" means a guaranty, issued by a parent company of Seller acceptable to Buyer in its discretion, substantially in the form and substance as attached hereto as Attachment E and in compliance with all requirements therefor set forth in Article 9, which is acceptable to Buyer.

"Party" and "Parties" are each defined in the first paragraph.

"Performance Assurance" means the Development Period Security and/or Delivery Term Security, as applicable.

"Performance Liquidated Damages" is defined in Section 3.5(a).

"Permit" means all state, federal and local authorizations, certificates, permits, licenses and approvals required by any Governmental Authority for the construction, interconnection, ownership, operation, control and maintenance of the Facility and the generation, storage, delivery and sale of Net Energy to Buyer.

"Permitted Transfer" means any of the following: (i) transactions among Affiliates of Seller, including any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests involving Seller or its Affiliates; (ii) any exercise by a Financing Party of its rights and remedies, provided that such exercise is in compliance with any applicable Financing Party consent and does not result in the transfer of the Facility to any Person other than a Qualified Transferee; and (iii) subject to Buyer's option to purchase, right of first offer and right of first refusal, the assignment or transfer to a Qualified Transferee on or after the fifth (5th) anniversary of the Commercial Operation Date.

"Person" means an individual, partnership, corporation, association, joint stock company, trust, joint venture, unincorporated organization, or Governmental Authority (or any department, agency, or political subdivision thereof).

"Project Contracts" means this Agreement, and any other contract, license, lease, purchase order or agreement required to equip, install, construct, commission, start-up, interconnect, manage, operate and maintain the Facility.

"Prudent Utility Practice" means any of the practices, methods, standards and acts, (including the practices, methods and acts engaged in or approved by a significant portion of utility company owners and operators of power plants in the United States that have the technology, complexity and size similar to the Facility) that, at a particular time in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, could have been expected to accomplish the desired result and goals (including such goals as efficiency, reliability, dependability, safety, economy, environmental conservation and cost effectiveness) in a manner consistent with applicable

facility design and operating limits and equipment specifications and any applicable practices, methods, acts, guidelines, standards and criteria of FERC, NERC, SERC and all applicable requirements of Law. Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be generally accepted and consistently adhered to acceptable practices, methods or acts relevant to the activity and facts in question.

"Qualified Institution" means a U.S. commercial bank or a licensed U.S. branch of a foreign bank, or other Person having an unsecured bond rating equivalent to A- or better (by S&P and/or Fitch) or A3 or better (by Moody's) as determined by at least two (2) Ratings Agencies, one of which must be either S&P or Moody's, and net tangible assets of at least **Ten Billion Dollars (\$10,000,000,000)**.

"Qualified Transferee" means any entity that (i) has an equal or better credit rating than the Seller or satisfies the Performance Assurance and collateral requirements of the Seller set forth in this Agreement; (ii) assumes Seller's obligations under this Agreement in a writing delivered to Buyer the form and substance of which is reasonably acceptable to Buyer; (iii) has (or has contracted with for the purpose of this Agreement), or is the subsidiary of an entity that has a record of owning and/or operating, (a) for a period of at least three (3) years prior to the Permitted Transfer, solar photovoltaic electric generating facilities with an aggregate nameplate capacity of no less than fifty megawatts (50 MW), and (b) the demonstrated expertise to operate a BESS of similar technology and size as the BESS at the Facility; and (iv) is not barred by applicable Laws and/or GRU's rules and regulations from contracting with or providing goods and services to GRU.

"Ramp Rate" is defined in Section 2.3(b)(i).

"Ramp Rate Allotment" is defined in Section 2.3(b)(ii).

"Ramp Rate Exceedance Adder" is defined in Section 2.3(b)(iii).

"Ramp Rate Exceedance Deposit" is defined in Appendix K.

"Ramp Rate Exceedances" is defined in Section 2.3(b)(iii).

"Ratings Agency" means Fitch, S&P or Moody's.

"Regulatory Event" is defined in Section 15.19(a).

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, representing (i) generation of one (1) megawatt hour of renewable, alternative or other non-nuclear, non-fossil fuel generated energy (or another quantity of energy as may be specified by the Applicable Program) by the Facility, and (ii) all ownership, right, title and interest to and claim over all of the Environmental Attributes and product reporting rights associated with the electrical energy generated by the Facility.

"Renewal Term" is defined in Section 3.1(a).

"Required Milestones" are those Milestones identified as Required Milestones in Attachment O.

"S&P" means Standard & Poor's or any successor thereto.

"Sale Leaseback Financing" means a sale leaseback whereby the Facility and, if applicable, Seller's interest in the Site are sold by Seller to one or more investors (each, a "SLB Lessor") and leased back by Seller and Seller retains a right of quiet enjoyment over the Facility and the Site during the lease term as long as Seller pays SLB Lessor(s) rent and performs and discharges its other obligations under the lease, provided that the terms, covenants and conditions of such lease do not adversely affect Buyer's option to purchase, right of first proposal and right of first offer, and provided further that upon any exercise by Buyer of its purchase option, right of first offer or right of first refusal, such sale leaseback will be terminated prior to or concurrent with the closing of the purchase by Buyer of the Facility assets by the reconveyance of the Facility assets and the Site by such SLB Lessor(s) to Seller.

"Scheduled Commercial Operation Date" means December 31, 2022 as of the Effective Date, as such date may be extended as expressly provided in Section 4.2(b).

"Scheduled Outage" is defined in Section 6.2(a).

"Seller" is defined in the first paragraph.

"Seller Interconnection Facilities" means all facilities and equipment between the Facility and the Delivery Point that are necessary to physically and electrically interconnect the Facility to the Delivery Point.

"Seller Sales Damages" means the discounted value (discounted at the Interest Rate) of the positive difference, if any, of: (i) all Dollar amounts that Seller would, in accordance with the terms and conditions hereof, be expected to receive from the sale of the Net Energy, Environmental Attributes and Capacity Attributes purchased by Buyer under this Agreement through the remainder of the Term; plus (ii) all incremental costs over and above those that Seller would otherwise incur when delivering the Net Energy, Environmental Attributes and Capacity Attributes to Buyer to the Delivery Point; less (iii) all Dollar amounts Seller reasonably would be expected to receive at the then-prevailing market conditions from the sale to a third party of the Net Energy, Environmental Attributes and Capacity Attributes that it would have provided to Buyer through the remainder of the Term.

"Shortfall" is defined in Section 3.5(a).

"Site" means the real property (including all fixtures and appurtenances thereto) and related physical and intangible property generally described in the Attachment A-2, owned, leased, licensed, occupied and/or operated by Seller, on which any buildings, facilities, installations, improvements, equipment, machinery, instruments, devices, hardware and systems comprising the Facility will be located, together with any easements, rights of way or other contractual or real property rights held or to be held by Seller, for transmission lines, interconnection facilities, or roadways servicing the property or the Facility located (or to be located) thereon.

"Surety Bond" means a bond in an amount, form and substance substantially in the form attached in Attachment F-2 or as otherwise acceptable to Buyer, that is issued by a surety or insurance company that is a Qualified Institution, which obligates the issuer to pay a specified amount to Buyer upon the occurrence of certain events, which include failure by Seller to perform, pay, satisfy and/or meet its obligations under this Agreement.

"System Operator" means the operator of the Transmission System, which is responsible for operation of the Transmission System as a whole, safely and reliably, including balancing generation supply with customer load and providing dispatch and curtailment instructions to generators supplying energy to the Transmission System, and includes any Person delivering any such instruction to Seller.

"System Operator Instruction" means any order, action, requirement, demand, or direction from the System Operator delivered to Seller in a non-discriminatory manner to operate, manage, and/or otherwise maintain safe and reliable operations of the Transmission System and/or Distribution System, including those implemented by the System Operator, but in its sole discretion based on relevant Transmission System and/or Distribution System factors and considerations (including any and all operating characteristics, maintenance requirements, operational limitations, reliability (including standing NERC regulations), safety, dispatch, constraints, discharge, emissions limitations, compliance requirements, communications, resource ramp-up and ramp-down constraints and implementation, and any other Transmission System and/or Distribution System considerations), which by way of example, may include an order or action to: (i) interconnect, disconnect, integrate, operate in parallel, or synchronize with the Transmission System and/or Distribution System, as applicable, (ii) increase (based on generator characteristics and Prudent Utility Practice), reduce or cease generation output to comply with standing NERC regulations; (iii) perform or cease performing any activity so as to operate in accordance with Transmission System and/or

Distribution System limitations, including operational constraints that would require the System Operator to force offline or reduce generation output from reliability must-run or base load generation to accommodate generation by the Facility; and (iv) suspend or interrupt any operational activity for an Emergency Condition or Force Majeure event.

"Tax Attributes" means (i) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or tax benefits under federal, state or other applicable Law available as a result of the ownership and operation of the Facility or the output generated by the Facility (including tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (ii) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Facility.

"Tax Equity Investor" means one or more investors in Seller or an Affiliate of Seller seeking a return that is enhanced by tax credits and/or tax depreciation and generally (i) described in Revenue Procedures 2001-28 (sale-leaseback (with or without "leverage")), 2007-65 (flip partnership) or 2014-12 (flip partnership and master tenant partnership) as those revenue procedures are reasonably applied or analogized to a solar project financing transaction, or (ii) contemplated by Section 50(d)(5) of the Code, as amended (a pass-through lease).

"Technical Dispute" means a dispute between the Parties regarding the Operating Procedures, the calculation of compliance with the Net Energy Delivery Requirements in accordance with Section 3.5(b), or any other technical matter related to the Facility or this Agreement as agreed in writing by the Parties.

"Term" is defined in Section 3.1.

"Termination Date" is defined in Section 11.2(a).

"Termination Notice" is defined in Section 11.2(a).

"Termination Payment" means (i) when Buyer is the defaulting Party or terminates following a Funding Default as set forth in Section 15.14, the payment by Buyer to Seller in the amount of the Seller Sales Damages, (ii) when the Agreement is terminated prior to the Commercial Operation Date without an Event of Default by Seller, the formula for the payment by Seller to Buyer set forth in Section 11.3, or (iii) when Seller is the defaulting Party, Buyer Purchase Damages as set forth in 11.4, as applicable.

"Test Energy" means any energy generated by the Facility during the period from interconnection of the Facility and completion of all tests necessary to demonstrate with respect to control of the generation and delivery of energy to the Delivery Point and ending on the Commercial Operation Date scheduled and in accordance with a written protocol agreed by the Parties delivered to the Delivery Point.

"Test Energy Rate" is defined in Attachment B.

"Tracking System" means the system that accounts for the generation, sale, purchase, transfer, certification, recording and/or retirement of RECs, and any other tracking system applicable to the Applicable Program as the context requires.

"Transmission System" means GRU's system of electric lines comprised wholly or substantially of high voltage lines, associated system protection, system stabilization, voltage transformation, and capacitance, reactance and other electric plant used for conveying electricity (i) from a generating station to a substation, (ii) from one generating station to another, (iii) from one substation to another, or (iv) to or from the Delivery Point or to ultimate consumers and shall include any interconnection owned by System Operator, but shall in no event include any lines not owned and operated by System Operator that GRU has specified to be part of the Distribution System except for distribution facilities required to accept Net Energy from the Facility, if any.

"Ultimate CE" is defined in Section 14.4(c).

"Variable Integration Costs" is defined in Section 5.2(b).

1.2 **Interpretation.** The following rules of construction shall be followed when interpreting this Agreement: (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter; (b) words used or defined in the singular include the plural and vice versa; (c) references to Articles, Sections, paragraphs, clauses and subparts refer to Articles, Sections, paragraphs, clauses and subparts of this Agreement unless otherwise expressly specified; (d) unless otherwise expressly specified, references to Attachments, Exhibits and Schedules refer to the Attachments, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes; (e) references to applicable Laws refer to such applicable Laws as they may be enacted, promulgated, interpreted, repealed, replaced, changed or amended from time to time, and references to particular provisions of an applicable Law include any corresponding provisions of any succeeding applicable Law and any rules and regulations promulgated thereunder; (f) terms defined in this Agreement are used throughout this Agreement and in any Attachments, Exhibits and Schedules hereto as so defined; (g) references to money refer to U.S. Dollars; (h) the words "includes" or "including" shall mean "including without limitation;" (i) the words "hereof," "hereby," "herein," "hereunder" and similar terms refer to this Agreement as a whole, unless otherwise expressly specified; (j) all references to a particular Person shall include a reference to such Person's successors and permitted assigns but only if such successors and assigns are permitted by this Agreement, (k) reference to a Person in a particular capacity excludes such Person in any other capacity or individually; (l) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, restated, supplemented or replaced from time to time; (m) the word "or" will have the inclusive meaning represented by the phrase "and/or;" (n) the words "shall" and "will" mean "must", and "shall" and "will" have equal force and effect and express an obligation; (o) all indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience only and are not intended to affect the meaning of the content or scope of this Agreement; (p) time is of the essence with respect to the performance by a Party of its obligations under this Agreement, (q) this Agreement was negotiated and prepared by both Parties with the advice and participation of counsel and none of the provisions of this Agreement shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof; (r) the terms and provisions of this Agreement shall be construed simply according to their fair meaning and not strictly for or against any Party; and (s) the words "writing," "written" and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

1.3 **Transmission of Energy.**

(a) This Agreement does not provide Seller authorization to interconnect the Facility to or inject power into the Transmission System. Seller shall contract for interconnection services with the System Operator. Seller acknowledges that the Interconnection Agreement will be a separate contract and that (a) this Agreement is not binding on the System Operator, (b) this Agreement does not create any rights between Seller and the System Operator, and (c) the Interconnection Agreement does not modify the Parties' rights and obligations under this Agreement. The System Operator shall be deemed to be a separate and unaffiliated contracting party for purposes of this Agreement, regardless whether the System Operator is Buyer or an Affiliate or related party or entity of Buyer.

(b) Notwithstanding the forgoing, the Parties agree that in connection with efforts to meet the Milestone for execution of the Interconnection Agreement they will cooperate in good faith to have incorporated into the Interconnection Agreement mutually agreeable terms consistent with market standards for the provision of wheeling or other transmission service over the Transmission System for delivery of Energy from the Facility to third-parties in the event this Agreement terminates or Buyer, for reasons other than acts or omissions by Seller, either (i) does not receive Net Energy at the Delivery Point for thirty (30) consecutive days or more, or (ii) cannot receive Net Energy at the Delivery Point for reasons beyond Buyer's control.

ARTICLE II
PURCHASE AND SALE TRANSACTION, FACILITY DESCRIPTION

2.1 Facility Capacity; Net Energy.

(a) Energy Supply. Seller agrees to produce, transmit, deliver, furnish and sell to Buyer and Buyer agrees to receive and purchase the Net Energy which is or can be produced by or associated with the Facility Rating of the Facility in accordance with the terms hereof. Unless specifically, expressly excused or limited by the terms of this Agreement, during the Delivery Term Seller shall produce at the Facility, sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Net Energy. Buyer shall only pay the Contract Price in relation to Net Energy associated with the Facility Rating of the Facility delivered to the Delivery Point, unless Buyer agrees in writing in its sole discretion to receive and pay for Energy delivered at an instantaneous rate greater than the Facility Rating. Photovoltaic solar energy generated by the Facility shall be the sole source of energy for the Net Energy sold, delivered and furnished to Buyer hereunder, including Net Energy delivered from the BESS, except as expressly, specifically provided herein. Buyer shall have no obligation to make any payment in respect of the daily projected availability or capacity or nameplate rating of the Facility, such as a capacity payment.

(b) Capacity Rating. The Facility Rating, which is the full generation capacity of the Facility net of all station service and net of losses, including transformation, storage or transmission losses, to the Delivery Point, shall be fifty (50) MWs as of the Commercial Operation Date and shall be maintained through the Delivery Term by methods acceptable to Buyer and regulatory organizations, notwithstanding the degradation of performance of Facility equipment, systems and components. During the Delivery Term, Seller shall sell and deliver the Net Energy solely to Buyer, and Seller shall have no right to sell, exchange, transfer or deliver Net Energy produced by the Facility to any Person other than Buyer except as may be expressly, specifically permitted under this Agreement during the period that an Event of Default of Buyer remains uncured or during a curtailment pursuant to a System Operator Instruction, Scheduled Outage, or Maintenance Outage, or during the period that the occurrence and impacts of an event of Force Majeure prevent Buyer from accepting delivery of Net Energy at the Delivery Point.

(c) Attributes. In connection with the generation, transmission, delivery, furnishing and sale of Net Energy and in consideration of Buyer's purchase of Net Energy, Seller shall assign, transfer, convey and deliver to Buyer free and clear of all liens, security interests and restrictions, and Buyer will receive from Seller, all ownership, right, title, and interest in and to all Environmental Attributes and Capacity Attributes, whether now or in the future existing or that are acquired by Seller during the Term associated with the Net Energy. Seller agrees to assign and transfer and make such Environmental Attributes and Capacity Attributes available to Buyer immediately to the fullest extent allowed by applicable Law upon Seller's production, acquisition or receipt of Environmental Attributes and Capacity Attributes associated with the generation of Net Energy. Seller shall not assign, transfer, convey, exchange, trade, pledge, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes and Capacity Attributes to any Person other than Buyer. In connection with the assignment and transfer of Environmental Attributes by Seller to Buyer hereunder, on or before the tenth (10th) day following the end of each month, Seller shall complete and provide to Buyer a bill of sale for Environmental Attributes in the form then required by the Applicable Program or, if none, the form attached hereto as Attachment H, and other instruments, certificates and documents reasonably requested by Buyer to accomplish the assignment and transfer of Environmental Attributes to Buyer. Such bill of sale, instrument or certificate shall be delivered to Buyer no later than the delivery of Seller's monthly invoice to Buyer for Net Energy.

(d) Contract Price. Buyer shall pay Seller the Contract Price for each MWh of Net Energy delivered to Buyer after the Commercial Operation Date. The Parties agree that the consideration for the transfer of the Environmental Attributes and Capacity Attributes is contained within the Contract Price.

2.2 Facility Description and Generation Capabilities. A detailed description of the Site and the Facility, including information, data, specifications, performance metrics and details about the location,

site layout, technology, equipment, solar power plant size, BESS, Ramp Rate, net output, and Interconnection Facilities is set forth in Attachment A-1 and Attachment A-2. Attachment A-1 is a scaled map and drawings that identify the Site, the location of the Delivery Point and the location of all meters and related measuring equipment, monitoring system, communication system, stand-alone meteorological stations, the Interconnection Facilities and other significant ancillary facilities. Attachment A-1 will be revised and supplemented as Facility engineering, design and construction drawings and specifications are finalized by Seller after review and comment by Buyer. Except as expressly permitted by this Agreement, Seller shall not sell, lease, convey, transfer or otherwise dispose of, or create, incur, assume, suffer or permit to exist any lien or encumbrance (other than liens expressly, specifically permitted herein) on any portion of the Facility, the Site or any other property, assets, rights, benefits or privileges which are used or held for use for the ownership, operation, maintenance, and use of the Facility and generation, storage, transmittal, delivery and furnishing of Net Energy, without the prior written approval of Buyer. For the avoidance of doubt, liens, encumbrances, conveyances, and other transfers by Seller to Financing Parties in connection with Financing Transactions are expressly permitted in accordance with the terms hereof.

2.3 **Facility Specifications.**

(a) **Compliance; Standards.** Seller, at its sole expense, will acquire the Site and plan, develop, design, permit, finance, equip, install, construct, interconnect, commission, start-up, test, provide security for, operate, maintain and repair the Facility in accordance with (i) Prudent Utility Practice; (ii) applicable Laws and Permits; (iii) requirements of applicable policies of insurance, including as set forth in Attachment D; (iv) Site requirements; and (v) the requirements of the Interconnection Agreement and this Agreement and other specifications set forth in Attachment A-1. Seller shall not materially relocate, change, alter, modify or enlarge the Facility or related technology, equipment or systems or change the Facility Rating of the Facility without Buyer's prior written consent in its discretion. All associated busses, breakers, switchgear, transformers and auxiliary equipment and ancillary services necessary to establish and maintain connection of the Facility to the Transmission System, as well as Permits, approvals, authorizations and consents necessary for the construction and operation of the Seller Interconnection Facilities through the Term, shall be procured, installed, operated and maintained by Seller at its expense. Buyer shall be responsible for all costs to construct and operate the Buyer Interconnection Facilities, including any interconnection studies, any required facilities, equipment, maintenance, ancillary services, and other necessary interconnection-related costs and arrangements through the Term.

(b) **Voltage; Ramp Rate.** The Facility shall support the voltage at the point of interconnection bus up to +/- 2% per unit scheduled voltage, subject to a System Operator Instruction.

(i) The rate of change of the Facility output at the Delivery Point shall be controlled or regulated during operation, and shall be limited to a maximum of 0.060 MW/minute per MW of the Facility Rating when increasing or decreasing load ("Ramp Rate"). For example, if the Facility has a Facility Rating of 50 MW, the Ramp Rate shall be limited to 3 MW/minute. Seller shall maintain such rate of change through facilities or industry recognized technologies consistent with Transmission System and operating conditions. The exceptions to the Ramp Rate limit are set forth in Section 2.3(b)(ii).

(ii) During the Delivery Term, for each calendar month of operation, the Facility shall be granted an allotment of MW-minutes in which the Ramp Rate shall be permitted to exceed the 0.060 MW/minute per MW of the Facility Rating ("Ramp Rate Allotment"). The Ramp Rate Allotment shall be calculated by taking the sum of the differences in minutes between the sunset time and the sunrise time at the Site for each day in the calendar month and multiplying this sum of minutes by three (3) MWs and 1.5%. For purposes of the Ramp Rate Allotment, the sunrise and sunset times shall be defined as the times listed on www.timeanddate.com, or another information source or location agreed upon by the Parties in the event that the sunrise and sunset times cease to be published on www.timeanddate.com. An example of the calculation of the Ramp Rate Allotment is set forth in Attachment J.

(iii) The MW output of the Facility at the Delivery Point shall be measured and recorded at a minimum interval of sixty (60) seconds. Within five (5) days after the end of each calendar month, the Ramp Rate shall be calculated for every minute of the month. For every minute that the Ramp Rate exceeds three (3) MW per minute, the difference of the Ramp Rate and three (3) MW shall be calculated and recorded ("Ramp Rate Exceedances"). The Ramp Rate Exceedances for every minute of such calendar month shall be summed ("Monthly Ramp Rate Exceedances"). If in any calendar month the number of Monthly Ramp Rate Exceedances is greater than Ramp Rate Allotment, the sum of (A) 1000 MWh and the product of five (5) MWh and the difference of the Monthly Ramp Rate Exceedances and the Ramp Rate Allotment ("Ramp Rate Exceedance Adder") shall be added to the Annual Payment Threshold. An example of the calculation of the Ramp Rate Exceedance Adder is set forth in Attachment K-1.

(c) BESS. Seller will equip the Facility with a BESS or other energy storage device described in detail in Attachment A-1. In all cases the BESS or storage devices must be charged solely by the Facility unless Buyer expressly approves charging from station power or the grid in Buyer's sole discretion. The BESS and any other energy storage systems or devices forming part of the Facility shall be operated and equipped in accordance with the System Operator's energy storage protocol, as it may be modified from time to time by the System Operator.

(d) Buyer Review. Buyer shall have the right to receive, review and comment on all design, engineering and construction plans, drawings, specifications and material documentation prepared by or for Seller and its Construction Contractors, subcontractors and vendors that are in privity of contract with Seller, and with respect to other construction contractors, subcontractors, and vendors, such construction plans, drawings, specifications and documentation in connection with the equipping, construction and operation of the Facility that are within Seller's possession or that may be reasonably obtained by Seller. Within thirty (30) days after the Effective Date the Parties shall mutually agree upon a submittal schedule detailing the documents and the scheduled date for delivery of documents to Buyer for review and comment. Seller shall give reasonable consideration to Buyer's comments, but for the avoidance of doubt, shall not be obliged to implement or address such comments, unless such design, engineering and construction plans, drawings, specifications and documentation, would result in existence of Emergency Conditions or in non-compliance with the Interconnection Agreement and/or applicable Law. Any review by Buyer of documents relating to the design, construction, engineering, operation or maintenance of the Facility, or monitoring or witnessing of construction or testing by or for Buyer hereunder, is solely for the information of Buyer. Buyer shall have no obligation to share the results of any such review or observation with Seller, nor shall any such review or observation, or the results thereof (whether or not the results are shared with Seller), nor any failure to conduct any such review relieve Seller from any of its obligations under this Agreement. By making any such review, Buyer makes no representation, express or implied, as to the economic, financial and technical feasibility, operational capability, output or reliability of the Facility, and Seller shall in no way represent to any third party that any review or inspection by Buyer, including any review of the design, construction, operation or maintenance of the Facility or observation of testing by Buyer, is a representation by Buyer, express or implied, as to the economic, financial and technical feasibility, operational capability, viability or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility.

2.4 Maintenance of Facility's Status.

Seller shall obtain and thereafter maintain all Permits and other authorizations necessary to develop the Site, equip, construct and interconnect the Facility, own and operate the Facility and generate, store transmit, sell, deliver and furnish Net Energy throughout the Term. Seller shall at all times keep Buyer informed of any material changes in its business or operations that could affect its status or eligibility to generate, deliver, furnish and sell Net Energy or otherwise perform its obligations under this Agreement. Buyer shall have the right, upon reasonable notice of not less than twenty-four (24) hours (and immediately, subject to the terms below, in the case of an Emergency), to inspect all or any part of the Facility and take any other actions reasonably deemed necessary to verify performance by Seller of its obligations and

compliance of the Facility and its operations in accordance with the terms, conditions and requirements of this Agreement.

ARTICLE III TERM, PURCHASE AND SALE

3.1 Term.

(a) Initial Term; Renewal Terms. This Agreement shall commence on the Effective Date and, unless sooner terminated in accordance with the terms hereof, shall continue until the date that is twenty (20) years following the Commercial Operation Date (the "Initial Term"). The Initial Term may be extended at the option of Buyer for two (2) extension terms of five (5) years each (each a "Renewal Term"), by notice from Buyer to Seller given at least one hundred twenty (120) days prior to the expiration of the Initial Term or the initial Renewal Term, as applicable, provided that the Parties mutually agree upon the Contract Price, Facility Rating, Net Energy output and Ramp Rate that shall apply during a Renewal Term prior to the expiration of the Initial Term or first Renewal Term as applicable. The Initial Term and any Renewal Term(s) are collectively (the "Term"). Buyer's obligation to receive and purchase and Seller's obligation to deliver, furnish and sell the Net Energy produced by the Facility as set forth herein shall be effective at the Commercial Operation Date provided that Seller is not in breach or default hereunder.

(b) Financing. Seller may terminate this Agreement by written notice to Buyer in the event that Seller is unable to obtain financing from third party Financing Parties sufficient for the construction, completion and commencement of operation of the Facility on terms and conditions reasonably satisfactory to Seller by December 31, 2021. If Seller exercises its termination right under this Section 3.1(b) for any reason other than its inability to obtain financing for the Facility as a result of abnormal conditions in financial and capital markets which generally have a material adverse impact on the financing of renewable or alternate energy generating facilities in the U.S., for which Seller may terminate this Agreement without further liability, then Buyer shall have the right to draw on the Development Period Security and receive **fifty percent (50%)** of the amount of such security upon such termination of this Agreement. Seller's right to terminate this Agreement pursuant to this Section 3.1(b) shall automatically expire and be deemed to have been waived by Seller on March 31, 2022 if no termination notice has been given by Seller to Buyer prior to such date; provided, however, that upon automatic or affirmative waiver of the financing condition described in this Section 3.1(b), Seller shall promptly deliver to Buyer an Officer's Certificate certifying that Seller has access to a viable source of funding that is fully available as the date of such certificate and shall be deployed by Seller to design, permit, equip, construct, complete and achieve Commercial Operation of the Facility.

(c) Termination and Survival. This Agreement may be terminated earlier than the expiration of the Term as expressly provided for herein. If this Agreement is terminated earlier than the expiration of the Term for any reason, including whether by its terms, mutual agreement, early termination, and/or Event of Default, such termination shall not relieve any Party of any obligation accrued or accruing hereunder prior to the effectiveness of such termination. Furthermore, any obligations, limitations, exclusions and duties which by their nature or the express terms of this Agreement extend beyond the expiration or termination of this Agreement, including, as applicable, provisions relating to compliance requirements, accounting, billing, billing adjustments, limitations on liabilities, dispute resolution, purchase options, rights of first offer or refusal, confidentiality, Performance Assurance, and any other provisions necessary to interpret or enforce the respective rights and obligations of the Parties hereunder, shall survive the expiration or early termination of this Agreement.

3.2 Purchase and Sale; Facility Testing.

(a) Sale of Net Energy. After the Commercial Operation Date, Buyer agrees to purchase all Net Energy associated with the Facility Rating produced by the Facility during the Term and delivered to Buyer at the Delivery Point during the Term, subject to the terms of this Agreement. Seller agrees to sell

and deliver to Buyer the entire Net Energy of the Facility associated with the Facility Rating during the Term and acknowledges that Buyer is entitled to receive all Net Energy from the Facility during the Term, except as otherwise expressly set forth in this Section 3.2(a). Title to and risk of loss for the Net Energy shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Net Energy delivered to Buyer at the Delivery Point, shall be free and clear of all liens, security interests, claims, restrictions and encumbrances or any interest therein or thereto by any Person.

(b) **Commencement of Energy Deliveries.** Seller will not commence initial delivery of Net Energy to the Delivery Point without the prior written consent of Buyer, which shall not be unreasonably withheld, conditioned or delayed. Pursuant to protocols and schedules developed and agreed upon by the Parties to assure the reliability of the Transmission System, and otherwise in accordance with the terms of this Agreement, Buyer will use reasonable efforts to purchase Test Energy produced by Seller during Facility testing and start-up at such times. Prior to energization of the Facility, Seller and Buyer shall collaborate and cooperate to develop an inspection, test and energization plan for pre-energization and energization testing. The testing plan shall be consistent with Prudent Utility Practice and include provisions for testing protective equipment that complies with NERC standards and requirements. System Operator and Buyer shall have the right to review and must approve the testing plan prior to the commencement of testing, and the testing plan shall include any additional tests required by Buyer. As a condition to achievement of Commercial Operation of the Facility, Seller shall develop a test plan for stability model validation in compliance with NERC standards and requirements. Buyer shall have the right to review and must approve the validation plan prior to implementation. Buyer will cooperate with Seller pursuant to Seller's reasonable request in writing to facilitate implementation of Seller's plan for testing of the Facility as necessary to achieve Commercial Operation, including coordination and scheduling and to receive test reports of the production and delivery of Test Energy. Representatives and designees of Buyer will have the right to be present during any testing of the Facility. Seller will provide Buyer not less than ten (10) Business Days' written notice before any testing to establish the Facility's Commercial Operation or establish or re-establish Facility Rating under this Agreement.

3.3 **Contract Price; Test Energy Rate.** Seller and Buyer agree that the applicable Contract Price paid by Buyer for Net Energy purchased hereunder is intended to compensate Seller for the electrical output of the Facility delivered to Buyer, as well as the Environmental Attributes and Capacity Attributes. Buyer shall pay Seller for the Net Energy made available for delivery to Buyer at the Contract Price, as set forth in Attachment B. In accordance with the protocol and schedule developed by the Parties for the testing of the Facility and generation, scheduling, purchase and sale of Test Energy, Buyer will use reasonable efforts to purchase Test Energy produced by the Facility during startup and testing at the rate set forth for Test Energy in Attachment B. Seller acknowledges and agrees it shall have no right to any compensation or payment for any curtailment of the Facility during the operation and testing of the Facility prior to the Commercial Operation Date.

3.4 **Generator Interconnection and Transmission Service.** Seller shall be responsible for applying to and receiving System Operator approval of the Facility interconnection requirements and facilities necessary for Seller to be able to deliver Net Energy to Buyer up to the Delivery Point in accordance with applicable interconnection requirements. As between the Parties, Seller shall be responsible for all costs to design, equip, construct, test and maintain the Seller Interconnection Facilities necessary to deliver Net Energy from the Facility to the Delivery Point. Seller shall provide Facility testing and operation data, documents and information that may be required by Buyer and System Operator to facilitate compliance with all applicable NERC reliability requirements and standards, including as may be applicable with regard to interconnection of the Facility to the Transmission System. As between the Parties, Buyer shall be responsible for all costs to design, equip, construct, test and maintain the Buyer Interconnection Facilities and any affected system facilities and upgrades necessary to receive and take the Net Energy at and from the Delivery Point.

3.5 **Contract Quantity and Guaranteed Energy Production.**

(a) **Guaranteed Production.** Seller has determined that following the Commercial Operation Date, the Facility will produce and deliver an annual expected output of Net Energy for each year of the Term as set forth in Attachment C (the "Contract Quantity"). Attachment K-2 is an illustration of the reduction of the Contract Quantity for Net Energy on an equitable basis by the amount of Net Energy that Seller could have generated during such curtailment determined by utilization of the Estimation Methodology less the amount of Net Energy used to charge the BESS, as reduced by the BESS Roundtrip Efficiency, due to any of the events described in Section 3.8(a)(i), (ii) and (iii) (without duplication) that prevent production and/or delivery of Net Energy. Starting with the second Contract Year, if the Facility fails to deliver Net Energy to Buyer at the Delivery Point in an amount greater than **eighty-five percent (85%)** of the Contract Quantity in any Contract Year (the "Guaranteed Energy Production"), then a shortfall of Net Energy with respect to such Contract Year equal to the difference between the Guaranteed Energy Production and the Net Energy actually delivered shall be deemed to exist (a "Shortfall"), and Seller shall pay to Buyer in respect of such Shortfall an amount equal to **fifty percent (50%)** of the Contract Price specified in Attachment B for that Contract Year multiplied by the amount of the Shortfall in kWh ("Performance Liquidated Damages"). In the event that starting with the second Contract Year, the Facility delivers Net Energy to Buyer at the Delivery Point in an amount greater than **one hundred fifteen percent (115%)** of the Contract Quantity, then an excess of Net Energy with respect to such Contract Year equal to the difference between the Contract Quantity and the Net Energy actually delivered shall be deemed to exist (an "Excess Delivery"), and Buyer shall pay to Seller in respect of such Excess Delivery an amount equal to **seventy-five percent (75%)** of the Contract Price specified in Attachment B for that Contract Year multiplied by the amount of the Excess Energy in kWh ("Excess Delivery Liquidated Damages"), except to the extent Buyer elects to purchase any Excess Delivery in accordance with Section 3.5(c). Performance Liquidated Damages owed by Seller to Buyer which Buyer does not set off against amounts owed by Buyer to Seller shall be paid by Seller to Buyer on the monthly payment date immediately succeeding the Contract Year for which Seller's obligation to pay such amounts arose or within thirty (30) days of delivery of an invoice from Buyer to Seller if the Shortfall occurred in the final Contract Year.

(b) **Output Adjustment.** Seller may adjust the quantities of Net Energy in Attachment C to quantities mutually agreed upon by the Parties based on final equipment selection for the Facility. Seller must provide notice to Buyer of such proposed adjustments to the quantities in Attachment C no less than six (6) months prior to the then-expected Commercial Operation Date. To the extent that the Parties do not agree on the proposed adjustments to the quantities in Attachment C within thirty (30) days after Seller's notice to Buyer, the original agreed upon quantities in Attachment C shall not be changed unless the Parties refer a decision on the proposed adjustments to the Technical Dispute resolution process. Within two (2) Business Days following the Commercial Operation Date, Seller shall provide to Buyer with the pro-rated quantities, subject to mutual agreement of the Parties, for Contract Year 1 and Contract Year 21 in Attachment C. Such pro-rated quantities shall be based, for Contract Year 1, on the Contract Quantity for Contract Year 2, and for Contract Year 21, on the Contract Quantity for Contract Year 20.

(c) **Output in Excess of Facility Rating.** In the event that the Facility is capable of generating Net Energy at an instantaneous rate that exceeds the Facility Rating, Buyer shall have the right, but not the obligation, exercisable by Buyer in its absolute and sole discretion, to purchase all or any amount of such additional Net Energy on terms and conditions and following protocols and procedures agreed upon by the Parties, including as set forth in the Operating Procedures or as otherwise relate to reliability, recoverability and schedule.

3.6 **Facility Accreditation.** Seller agrees to cooperate with Buyer in taking such Commercially Reasonable actions at Seller's costs as are necessary for Buyer to obtain accreditation of the Facility to the maximum extent practicable for purposes of (a) satisfying resource adequacy, reliability and requirements applicable to Buyer, and (b) acquiring all right, title and interest in and to Environmental Attributes, RECs and Capacity Attributes.

3.7 **Federal Tax Incentives.** Seller shall retain any and all state and federal Tax Attributes, credits, grants or incentives, which are or will be generated by the Facility. Seller acknowledges and agrees that its obligations hereunder to develop, permit, finance, construct, own, operate and maintain the Facility and generate, deliver and sell Net Energy to Buyer are not subject to, contingent upon or conditioned upon Seller's receipt of or eligibility for any Tax Attributes.

3.8 **Performance Excuses.**

(a) **Seller Performance Excused.** The obligation of Seller to deliver Net Energy to the Delivery Point shall be excused only (i) during periods of Emergency Conditions or a Force Majeure event that prevent or limit delivery of Net Energy by Seller, (ii) by Buyer's unexcused failure to perform its obligation to receive Net Energy at the Delivery Point, (iii) during curtailment periods pursuant to a System Operator Instruction or Dispatch Down and (iv) during Scheduled Outages and Maintenance Outages.

(b) **Buyer Performance Excused.** The obligation of Buyer to receive and pay for Net Energy generated by the Facility and delivered to the Delivery Point shall be excused only (i) during periods of Emergency Conditions or a Force Majeure event that prevent or limit receipt of Net Energy, (ii) by Seller's failure to perform its obligations to generate and deliver Net Energy to the Delivery Point, (iii) during curtailment periods pursuant to a System Operator Instruction, or (iv) maintenance outages or forced outages of the Transmission System.

(c) **Transmission Service Failure.** Except for a failure resulting from a Force Majeure event or during a curtailment period pursuant to a System Operator Instruction, the failure of electric transmission service shall not excuse performance with respect to either Party.

3.9 **Curtailment Instruction.**

(a) **Curtailment.** Seller shall comply with all System Operator Instructions. For the avoidance of doubt, System Operator, in System Operator's performance of its functions and responsibilities relating to the Transmission System and as the balancing area authority, shall have the right and is entitled and authorized to require the Facility to take or to directly take all actions to dispatch or otherwise control the generation output and operation of the Facility. Except to the extent expressly set forth in Section 3.9(b) for a Dispatch Down exceeding five percent (5%) of the applicable annual Contract Quantity, Seller shall not be entitled to receive any compensation for any loss, damage, cost, or expense arising from, caused by, resulting from or due to any reduction, suspension or cessation of Net Energy generation by the Facility in response to any such order or instruction by or direct action taken by System Operator. Except as expressly set forth in Section 3.9(b) for a Dispatch Down, all Seller losses, damages, costs or expenses for any reduction, suspension or cessation of Net Energy generation by the Facility shall be borne solely and entirely by Seller, including for any loss, damage, cost or expense arising from, caused by, resulting from or due to the lost or reduced generation by the Facility, lost tax benefits or credits, lost investment tax credits, grants or any other incentives or monetary opportunity relating to the design, development, generation from, construction, maintenance, ownership, or operation of the Facility.

(b) **Limited Payments for Control Instruction Dispatch Down.** During any Calendar Year during the Term, Seller shall not be entitled to receive Curtailment Compensation from Buyer for Dispatch Down of the Facility until the aggregate amount of Net Energy that would have been generated but was not generated due to Dispatch Down instructions in such Calendar Year exceeds the sum of the following: five percent (5%) of the annual Contract Quantity (stated in whole MWhs) and the Ramp Rate Exceedance Adder calculated in accordance with Section 2.3(b)(ii) (such aggregate quantity, the "Annual Payment Threshold"). For any partial Calendar Year during the Term, the Annual Payment Threshold shall be ratably prorated for the number of days in such partial Calendar Year.

(c) If the Annual Payment Threshold is exceeded in any Calendar Year, Curtailment Compensation shall be computed and paid by Buyer to Seller in an amount equal to the product of the Contract Price times the amount of Net Energy that could have been generated in excess of the Annual

Payment Threshold but was not generated due to compliance with and implementation of Dispatch Down instructions ("Curtailment Compensation"). The amount of Net Energy that could have been generated shall be determined using the Estimation Methodology set forth in Section 3.9(c)(ii).

(i) (A) Buyer shall pay Seller a Curtailment Compensation for Dispatch Down of the Facility in a Calendar Year if, and only if and in respect of those times during which: (1) the Facility was generating or would have been generating (absent the Dispatch Down) Net Energy at the time of a Dispatch Down instruction and meteorological conditions and Facility availability, capability and operating conditions were such that the Facility would have actually produced Net Energy at the time of the Dispatch Down instruction; and (2) the actual cumulative reduction of Net Energy generation by the Facility due to Dispatch Down instructions in the Calendar Year exceeds the Annual Payment Threshold for the Calendar Year. The Curtailment Compensation shall be Seller's sole and exclusive payment and remedy for compliance with the Dispatch Down in excess of the Annual Payment Threshold, and any and all other Seller losses, damages, costs, expenses, credits or payments are expressly disclaimed and waived. For purposes of determining Curtailment Compensation, the discharge of Energy from the BESS or other storage resource shall not constitute the generation of Energy.

(B) If the actual cumulative reduction of Net Energy output by the Facility due to Dispatch Down instructions during the Calendar Year is less than the Annual Payment Threshold, Buyer shall be entitled to a credit in an amount equal to the product of (1) the Annual Payment Threshold minus the amount of Net Energy which was not generated, and (2) the Contract Price and such credit may be setoff by Buyer against any amounts owed by Buyer to Seller ("Curtailment Credit").

(ii) Buyer shall determine in a Commercially Reasonable manner the quantity of Net Energy that could have been generated but was not generated due to compliance with and implementation of Dispatch Down instruction(s) based on: (i) power plant controller output data points which Seller shall provide to Buyer, on a real time basis, during the Term of this Agreement; (ii) the duration of the Dispatch Down; (iii) the amount of the generating capability of the Facility that is curtailed by the Dispatch Down (e.g. 10% generation capability is curtailed); (iv) the solar exposure, irradiance, and meteorological conditions actually recorded at the Facility during the Dispatch Down period; and (v) the Facility design, performance capability, and historic performance (the "Estimation Methodology"). In the event that the real time data specified in this Section 3.9(c)(iii) is unavailable, historical production data shall be used for the computation. Absent manifest error, Buyer's calculations of the quantity of Net Energy that could have been generated but was not generated due to compliance with and implementation of the Dispatch Down instruction(s) shall govern for purposes of determining Curtailment Compensation. Attachment J contains an illustration of the impact of curtailment on the Contract Quantity and Guaranteed Energy Production.

(d) Invoicing. Billing with respect to Curtailment Compensation to be paid by Buyer to Seller or Curtailment Credit to be credited to Buyer shall be made within thirty (30) days after the end of the applicable Calendar Year. Seller shall deliver an invoice to Buyer setting forth the amount of the Curtailment Compensation owed by Buyer to Seller or the Curtailment Credit to which Buyer is entitled, and a description, in reasonable detail, of the application of the Estimation Methodology and calculation of Net Energy not generated.

3.10 Replacement Energy.

(a) Right to Purchase. Subject to clauses (b) and (c) of this Section 3.10, in the event of a Scheduled Outage, Maintenance Outage, or an outage in connection with a Force Majeure event or other event described in Section 3.8(a), during the period of such outage, Buyer (i) has the right to purchase replacement energy for the Net Energy that could have been produced by the Facility during such period, and (ii) shall be relieved from the obligation to receive and purchase, or cause to be received and purchased,

Net Energy at the Delivery Point up to the amount of Net Energy that would have been produced during such outage.

(b) Outage Notice. In connection with any outage of the Facility for which Seller delivers written notice (including by email) to Buyer stating that Seller anticipates such outage will continue for twenty-four (24) hours or more:

(i) Buyer may purchase replacement energy in quantities and for a period as determined by Buyer in a Commercially Reasonable manner;

(ii) Buyer shall not be obligated to purchase or receive Net Energy during such period; and

(iii) Seller shall provide to Buyer its plan to resume delivery of Net Energy and regular updates of the status and progress of implementation of the plan.

(c) Forced Outage. In connection with any outage of the Facility that is not a Scheduled Outage or a Maintenance Outage and for which Seller fails to deliver written notice (including by email) to Buyer within twenty-four (24) hours after the occurrence of such outage:

(i) Buyer may purchase replacement energy in quantities and for a period as determined by Buyer in a Commercially Reasonable manner;

(ii) Buyer shall not be obligated to purchase or receive Net Energy during such forced outage period; and

(iii) Seller shall provide to Buyer its plan to resume delivery of Net Energy and regular updates of the status and progress of implementation of the plan.

3.11 Purchase of Facility.

(a) Purchase Option. Seller hereby grants Buyer, subject to the terms of this Section 3.11, the exclusive option to purchase the Facility and related assets, Seller's interests in the Site, rights and interests used and held for use for the operation, maintenance and repair of the Facility and the generation, storage, transmission, delivery and furnishing of energy, at a price equal to the higher of the pre-agreed Option Price in Attachment I or the Fair Market Value as determined in accordance with the procedure set forth in Section 3.11(a)(i). This exclusive option to purchase may be exercised at any time by Buyer during the eighth (8th) Contract Year, the twelfth (12th) Contract Year and the sixteenth (16th) Contract Year.

(i) Notice of Preliminary Interest. Buyer shall indicate its preliminary interest with respect to the exercise of the purchase option, if at all, by delivering to Seller a preliminary notice of its interest no less than one hundred eighty (180) days prior to the first day of the relevant Contract Year described in Section 3.11(a). If Buyer fails to deliver such notice of interest by such date, Buyer's option in respect of such Contract Year shall terminate but such termination shall not affect Buyer's subsequent exclusive purchase option thereafter.

(ii) Determination of Fair Market Value of the Facility. Promptly following delivery of the notice of preliminary interest by Buyer, the Parties shall mutually agree to the Fair Market Value of the Facility. If Buyer and Seller cannot mutually agree to a Fair Market Value of the Facility within one (1) month of delivery of the notice of preliminary interest, then each of Buyer and Seller shall select and retain, at its own cost and expense, a nationally recognized independent appraiser with experience and expertise in appraising solar power electric generating facilities to determine separately the value of the Facility. Subject to the appraisers' execution and delivery to Seller of a suitable confidentiality agreement in a form reasonably acceptable to Seller and Buyer, Seller shall provide both appraisers access to the Facility and its books and records during business hours and upon prior written notice. The appraisers shall act reasonably and in good faith to determine the Fair Market Value of the Facility assets and the Parties shall use their best efforts to cause the appraisers to complete such determination no later than two (2)

months following delivery of the notice of preliminary interest by Buyer. If for any reason (other than failure by Seller to provide access hereunder to Buyer's appraiser), one of the appraisals is not completed within three (3) months following delivery of the notice of preliminary interest, the results of the other completed appraisal shall be deemed the Fair Market Value of the Facility assets. Each Party may provide to both appraisers a list of factors which the Parties suggest be taken into consideration when the appraisers generate their appraisals, consistent with electric utility industry standards prevailing at such time for appraising photovoltaic solar electric generating facilities with battery energy storage system or other storage capability. Any information provided to an appraiser by a Party shall be provided to the other appraiser and the other Party at the same time, it being the intent of the Parties that the appraisers have access to the same information. Buyer and Seller shall deliver the results of their respective appraisal to the other Party when completed. If requested by either Party, the appraisals shall be exchanged simultaneously. After both appraisals are completed and exchanged, the Parties and their appraisers promptly shall confer and attempt to agree upon the Fair Market Value of the Facility assets.

(iii) Disagreement as to Value. If, within one month after completion of both appraisals, the Parties cannot agree on the Fair Market Value of the Facility assets, and the values of the appraisals are within ten percent (10%) of each other, the Fair Market Value of the Facility shall be the simple average of the two appraisals. If the values of the two appraisals differ by ten percent (10%) or more, the first two appraisers shall choose a third independent appraiser experienced in appraising photovoltaic solar electric generating facility assets, or, if the first two appraisers fail to agree upon a third appraiser within ten (10) days after the expiration of the one month period following completion of both appraisals, such appointment shall be made by the American Arbitration Association upon application of either Party in accordance with the applicable rules and regulations of the American Arbitration Association for such selection. The third appraiser shall have access to the same information as was available to the two other appraisers. The Parties shall direct the third appraiser to determine the Fair Market Value of the Facility assets within two (2) months following his/her retention. The costs and expenses of such third appraiser shall be shared equally by the Parties. Upon completion of the Fair Market Value of the Facility assets by such appraiser, the Fair Market Value of the Facility assets will be the simple average of the three appraisal values completed in accordance with this Section 3.11.

(iv) Exercise of Purchase Option; Purchase and Sale. Within three (3) months following the final determination of the Fair Market Value of the Facility assets pursuant to this Section 3.11, Buyer shall notify Seller if Buyer elects to exercise its option to purchase the Facility. If Buyer delivers a valid and timely notice confirming its exercise of the option to purchase the Facility, Seller shall sell, transfer, assign and convey to Buyer all of the Facility assets and all right, title and interest of Seller therein or relating thereto, free and clear of all liens, claims, obligations, liabilities, encumbrances, or rights of others arising through Seller on the date of the anniversary of the Commercial Operation Date, including good and valid title to the Facility assets and Seller's rights, title and interest in and to the Site. In connection with such sale, transfer, assignment and conveyance of the Facility assets, Seller shall (a) assign or otherwise make available, to the extent permitted by applicable Laws and not already assigned or otherwise transferred to Buyer, Seller's interest in all material Project Contracts and Permits, licenses, approvals and consents of any Governmental Authority or other Persons that are then in effect and that are utilized for the operation or maintenance of the Facility assets that Buyer desires to assume; (b) cooperate with all reasonable requests of Buyer for purposes of obtaining or making, or enabling Buyer to obtain or make, any and all material Permits and licenses, permits, approvals and consents of any Governmental Authorities or other persons that are or will be required to be obtained by Buyer in connection with the use, occupancy, operation or maintenance of the Facility or the Site in compliance with applicable Laws; (c) provide Buyer copies of all documents, instruments, plans, maps, specifications, manuals, logs, drawings, operator training materials, warranties, guarantees, and other documentary materials relating to the design, engineering, installation, construction, operation, maintenance, modification and repair of the Facility, as shall be in Seller's possession or control and shall be necessary, useful or appropriate for the ownership and operation of the Facility.

(b) **Right of First Refusal; Right of First Offer.** In the event that, during the Term, Seller desires to enter into a contract, agreement, arrangement or undertaking to actually or potentially sell, lease, convey, transfer or assign any or all of the Facility assets to a third party other than in a Financing Transaction, then prior to entering into any formal negotiations regarding such sale with other parties, Seller shall provide written notice to Buyer of its desire to sell the Facility to Buyer on the terms and conditions contained therein (the "Offer Notice"). Within sixty (60) days after the Offer Notice is given, Buyer shall provide written notice to Seller if it is interested in acquiring the Facility assets at the purchase price and on the terms provided in the Offer Notice (a "Notice of Interest"). If Buyer delivers such notice, the Parties agree to engage for a period of sixty (60) days thereafter in exclusive good faith negotiations to reach agreement with respect to a transaction for the sale of the Facility assets. If during this period the Parties execute a letter of intent, or other document similarly confirming the Parties' intent to enter into a transaction for the purchase and sale of the Facility assets, then such exclusive negotiation period shall be automatically extended for an additional one hundred fifty (150) day period, during which time the Parties may execute a purchase and sale agreement for the Facility. Seller may pursue any transaction for the sale, lease, transfer, assignment or conveyance of the Facility assets with one or more third parties at any time and from time to time at the same or higher purchase price and on terms and conditions that, in the aggregate are materially no less favorable to Seller than those stated in the Offer Notice (with no further obligation to offer the same to Buyer) following an occurrence of any of the following: (i) Buyer expressly declines interest in acquiring the Facility after receipt of Seller's Offer Notice; (ii) Buyer fails to respond to the Offer Notice within sixty (60) days after receipt thereof; (iii) Seller and Buyer fail to execute a letter of intent or other similar document with respect to the sale of the Facility within ninety (90) days after Seller's receipt of the Notice of Interest from Buyer; or (iv) Seller and Buyer fail to execute a purchase and sale agreement for the Facility within one hundred fifty (150) days, or later, after Seller's receipt of a Notice of Interest from Buyer. Notwithstanding the foregoing, if the Seller (x) does not consummate a proposed transfer of the Facility to one or more third parties within three hundred sixty-five (365) days after first providing Buyer with an Offer Notice, and after such period still desires to sell, transfer, or assign the Facility, then it must again offer to sell, transfer, or assign the Facility to Buyer pursuant to the terms of this Section 3.11(b); or (y) wishes to sell, transfer, or assign the Facility to any third party other than in a Financing Transaction at a lower price or on terms and conditions that are in aggregate, materially less favorable to Seller from those in the Offer Notice, then before doing so, it must first offer to sell, transfer, or assign the Facility to the Buyer at the same purchase price and terms and conditions pursuant to the terms of this Section 3.11(b). In the event that Buyer and Seller reach agreement on the terms and conditions for the purchase and sale of the Facility, such terms and conditions shall be memorialized by entering into a separate purchase and sale agreement for the Facility. In the event Buyer elects to exercise its rights to acquire the Facility or substantially all the Facility assets, this Agreement shall terminate effective upon the closing of Buyer's acquisition thereof. Nothing in this Section 3.11(b) shall limit or affect Buyer's consent rights in Section 15.1.

(c) Neither Buyer's right of first offer nor Buyer's right of first refusal shall (i) apply to any Sale Leaseback Financing or to any sale by the Financing Parties in connection with the exercise of Financing Parties remedies under any Financing Documents, nor (ii) limit Buyer's rights to exercise the option to purchase.

ARTICLE IV MILESTONES

4.1 Milestones.

(a) The Parties agree that their respective obligations with regard to the sale and purchase of Net Energy hereunder are subject to completion of the Milestones. Each Party will use Commercially Reasonable Efforts to complete Milestones which are to be accomplished by it by the applicable Milestone Deadline.

(b) The Parties, each acting in its discretion, may mutually agree in writing to revise a Milestone Deadline, which shall not be unreasonably withheld if requested in writing, on the basis of the occurrence of events, occurrences, and circumstances not within the control of the Party responsible for the completion of the Milestone which caused such Party to be delayed in completion of the Milestone without amending this Agreement.

(c) The following Milestones are the Required Milestones:

(i) Site Control, which means Seller has acquired by purchase, lease, easement or license and shall have in force and effect all rights, title and interests in and to the Site necessary for Seller to have access to, occupy, use, and develop the Site for the construction and operation of the Facility, generation and delivery of Net Energy to the Delivery Point, and performance of Seller's other obligations hereunder during the entire remainder of the Term, including any Renewal Terms;

(ii) Interconnection Agreement Execution, which means Seller and the Interconnection Utility have executed the Interconnection Agreement;

(iii) Seller Notice to Proceed, which means Seller has given notice(s) to proceed to its Construction Contractor(s) for commencement of full scope design, procurement and construction of the Facility pursuant to the Construction Contract(s);

(iv) Synchronization, which means Seller, in coordination with Buyer and Interconnection Utility, has successfully completed all pre-operational testing and commissioning of the Seller Interconnection Facilities in accordance with Interconnection Utility requirements and manufacturer guidelines;

(v) Commercial Operation; and

(vi) Easement for Seller Interconnection Facilities at Parker Road Substation, which means Seller and Buyer shall have mutually agreed upon the terms and conditions of the easement(s), licenses, and/or rights of use to be provided by Buyer to Seller as necessary for Seller to construct, test, operate, maintain, repair, upgrade, modify, replace, disassemble and remove the portion of the Seller Interconnection Facilities located at the Parker Road Substation.

(d) The following Milestones are the Interim Milestones:

(i) Interconnection Application, which means Seller has submitted a complete application to System Operator for the interconnection of the Facility to the Transmission System;

(ii) Operating Procedures, which means Seller and Buyer have agreed upon the terms and conditions of the initial Operating Procedures sufficient for the pre-energization, testing and commencement of operation of the Facility for the generation and delivery of Net Energy;

(iii) Buyer Interconnection Facilities Construction Commencement, which mean Interconnection Utility has given the notice(s) to proceed to its contractor(s) for construction of the Buyer Interconnection Facilities;

(iv) Permitting Application, which means Seller has submitted to the responsible government authorities a complete application for the Alachua County Growth Management Zoning Permit;

(v) Procure Breaker, which means Buyer has received delivery of the breaker to be installed in Buyer Interconnection Facilities; and

(vi) Transformer Delivery, which means delivery to the Seller of the transformers to be owned, installed, operated and maintained by Seller at the Parker Road Substation as part of the Seller Interconnection Facilities.

(e) In the event that a Party is unable to timely complete any Milestone other than the Commercial Operation Milestone by the assigned Milestone Deadline, it shall give prompt notice of such delay to the other Party, together with a remedial plan consistent with Prudent Utility Practice to achieve completion of the Milestone in a manner that will allow the Facility to achieve Commercial Operation by the Scheduled Commercial Operation Date. The affected Party shall diligently implement the remedial plan to completion.

(f) If Seller fails to satisfy a Required Milestone (other than the Commercial Operation Milestone) by the applicable Milestone Deadline as it may be extended in accordance with Section 4.1(e), then Seller shall pay liquidated damages in the amount of Delay Damages for each day after the Milestone Deadline until the Required Milestone is satisfied. For the avoidance of doubt, the amount of Delay Damages will be the same irrespective of the number of concurrent delayed Required Milestones. Seller will pay Buyer's monthly invoices for such liquidated damages within thirty (30) days after receipt of Buyer's invoice. If Commercial Operation is achieved prior to the Scheduled Commercial Operation Date, then Buyer shall reimburse Seller (without interest) all liquidated damages paid by Seller to Buyer as a result of a delayed Required Milestone.

(g) The Parties agree that if Buyer fails to complete a Milestone for which it is the responsible Party by the Milestone Deadline, as it may be extended for Excused Delays, Seller shall have a day-for-day extension of the Milestone Deadline for Seller Milestones delayed thereby. If Buyer's delay in completing a Milestone by the applicable Milestone Date for reasons other than Excused Delays is a substantial cause of the Facility not being placed in service for federal income tax purposes by December 31, 2023 (or, if there is an extension of the deadline in section 48(a)(7)(B) for the U.S. Tax Code for the Facility to be placed in service to qualify for a thirty percent (30%) investment tax credit, such extended deadline), then the Parties agree that for a period of ninety (90) days or such longer period of time as agreed upon by the Parties in writing, they will make good faith efforts to negotiate and attempt to agree upon terms and conditions of an amendment of this Agreement, including but not limited to an adjustment of the Contract Price, a change in the term of the Agreement, an adjustment of the Contract Quantity, or other provisions in an attempt to mitigate the economic loss that each of the Parties might otherwise sustain as a result thereof.

4.2 Notice of Milestone Completion, Extension Period.

(a) Satisfaction of Milestones. Within five (5) Business Days after a Milestone is accomplished, the responsible Party shall deliver to the other Party a written certification by an authorized representative that such Milestone has been accomplished, the date accomplished, and documentation to reasonably demonstrate accomplishment of the Milestone. Upon achievement of the Commercial Operation Date, Seller shall execute and deliver to Buyer a written certification ("Notice of Commercial Operation") certifying that (i) the Facility is constructed in accordance with construction plans and specifications and the terms and conditions of this Agreement and is capable to generate, store, transmit, deliver, furnish and sell Net Energy in accordance with the requirements of this Agreement; (ii) all Seller Interconnection Facilities have been constructed and tested in accordance with the terms and conditions of this Agreement and the Interconnection Agreement and are available to receive Net Energy from the Facility; and (iii) all Milestones have been satisfied.

(b) Extension of Scheduled Commercial Operation Date. Notwithstanding any provision of this Agreement to the contrary, the Scheduled Commercial Operation Date may be extended on a day-for-day basis for up to three hundred sixty-five (365) days, in the aggregate, for Excusable Delays affecting Seller, provided that an Excusable Delay due to a Force Majeure event shall be governed by the terms of Article X. If Seller claims a permitted extension of the Scheduled Commercial Operation Date for Excusable Delay, Seller shall provide notice thereof to Buyer not less than sixty (60) days prior to the Scheduled Commercial Operation Date, which notice must clearly identify the Excusable Delays being claimed and include information necessary for Buyer to verify the length and qualification of the extension,

provided that, in the event sixty (60) days is impracticable or impossible, Seller shall provide as much advance notice as is reasonably possible.

(c) Completion Deadline. If Seller, using Commercially Reasonable Efforts and without breach of its obligations and covenants hereunder, is unable to achieve Commercial Operation by the Scheduled Commercial Operation Date, as such date may be extended for Excusable Delay as provided in Section 4.2(b), Seller shall have a period of up to three hundred sixty-five (365) days after the Scheduled Commercial Operation Date (the "Extension Period") to achieve Commercial Operation of the Facility subject to the following conditions: (A) not less than thirty (30) days prior to the Scheduled Commercial Operation Date, Seller requests in writing an Extension Period, specifies in such request the length of the Extension Period and provides to Buyer a remedial plan and other documents and information requested by Buyer which reasonably demonstrate the conditions set forth in (B) and (C) below; (B) Seller provides certification from an independent engineer reasonably acceptable to Buyer confirming that the requirements of Commercial Operation of the Facility can reasonably be satisfied by Seller and its Construction Contractors within the Extension Period; (C) Seller demonstrates to Buyer's reasonable satisfaction acting in a Commercially Reasonable manner, that Seller and its Construction Contractors have been making diligent efforts to satisfy the requirements of Commercial Operation of the Facility by the Scheduled Commercial Operation Date as documented by the status reports submitted by Seller hereunder; (D) during the Extension Period, Seller and its Construction Contractors continue to make diligent efforts to achieve Commercial Operation of the Facility by expiration of the Extension Period; and (E) prior to commencement of the Extension Period, Seller pays to Buyer, as liquidated damages, a sum in the amount of **Seven Thousand Five Hundred Dollars (\$7,500.00)** per day multiplied by the length of the Extension Period requested by Seller ("Extension Payments"); provided, however, that if the Commercial Operation Date occurs prior to the end of such requested Extension Period, Buyer will credit Seller the amount of liquidated damages paid on a prorated basis for each day that the Commercial Operation Date occurs prior to the end of the requested Extension Period. Notwithstanding the above and any other provision of this Agreement, the total number of days that the Commercial Operation Date may be extended as a result of Excusable Delays and an Extension Period shall not, in the aggregate, exceed a total of three hundred sixty-five (365) days.

(d) Failure to Achieve Commercial Operation. If Seller (i) fails to achieve Commercial Operation by the Scheduled Commercial Operation Date, as such date might be extended for Excusable Events as provided in Section 4.2(b), and (ii) fails to request an Extension Period or having requested an Extension Period fails to achieve Commercial Operation prior to the expiration of the Extension Period, Buyer shall have the right to terminate this Agreement in accordance with Section 11.2 by notice to Seller and draw on the Delivery Period Security, in an amount equal to the sum of any payments owed by Seller to Buyer as of the termination date, and liquidated damages in the amount of **\$25,000/MW**. Upon Buyer's collection of the full amount of the Development Period Security from Seller, this Agreement may be terminated by Buyer in its sole discretion, and neither Party will have any further obligations hereunder, except those obligations expressly provided to survive termination.

4.3 **[RESERVED]**.

4.4 **Liquidated Damages.**

(a) Liquidated Damages. Each Party agrees and acknowledges that (i) the damages, losses and costs that Buyer would incur due to Seller's delay in achieving or inability to achieve any Required Milestone by the applicable deadline date therefor or the Commercial Operation Date by the Scheduled Commercial Operation Date, would be difficult or impossible to calculate or predict with certainty, and (ii) it is impractical and difficult to assess actual damages, losses and costs in the circumstances stated, and therefore the Extension Payments, the Delay Damages, the liquidated damages provided in Section 4.2(d), and the termination rights and damage calculations under Section 9.3(a), all as agreed to by the Parties as set forth herein, are a just, fair and reasonable calculation of such damages, losses and costs.

Notwithstanding the foregoing, this Article IV shall not limit the amount of damages payable to Buyer if this Agreement is terminated by Buyer as a result of Seller's failure to achieve Commercial Operation of the Facility by the Scheduled Commercial Operation Date as a result of an Event of Default by Seller. Any such termination damages shall be determined in accordance with Section 11.3.

(b) **Invoicing.** By the tenth (10th) day following the end of the calendar month in which Delay Damages first become due and continuing by the tenth (10th) day of each calendar month during the period in which Delay Damages accrue (and the following months if applicable), Buyer shall deliver to Seller an invoice showing Buyer's computation of such damages and any amount due and owing to Buyer in respect thereof for the preceding calendar month. No later than ten (10) days after receiving such an invoice, Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. If Seller fails to pay such amounts when due, Buyer may draw upon any rights and Development Period Security for payment of such Delay Damages, and Buyer may exercise any other remedies available for Seller's default hereunder.

4.5 **Early Completion.** Seller may, but shall not be required to, achieve Commercial Operation on a date that is earlier than the Scheduled Commercial Operation Date; provided, however, if Seller intends or expects to achieve Commercial Operation on a date that is earlier than three (3) months prior to the Scheduled Commercial Operation Date, it must notify Buyer in writing of such early date by no later than six (6) months prior to the intended or expected Commercial Operation Date. Notwithstanding any provision hereof, Buyer shall have no obligation to receive delivery of Test Energy or Net Energy or make payment for Test Energy or Net Energy until November 1, 2022.

ARTICLE V SELLER OBLIGATIONS

5.1 **Design, Construction and Operation of the Facility.** Seller, at its cost, expense and risk, will be responsible for all management, supervision, administration, labor, services, work, materials, equipment, supplies, hardware, software, licenses, Permits, insurance, risk management, quality assurance, quality control, recordkeeping, documentation, reporting and other items, activities and rights associated with the construction, interconnection, start-up, operation and maintenance of the Facility in compliance with applicable Laws, Permits, Prudent Utility Practice and the "GRU Facility Interconnection Requirements (Approved 4/21/2020)", which has been provided to Seller. Seller's obligations include the following:

(a) develop, design, engineer, permit, finance, equip, install, construct, commission, start-up and test the Facility, including the Seller Interconnection Facilities, in accordance with Prudent Utility Practice and the specifications listed on Attachment A-1;

(b) acquire all rights, title, entitlements and/or interests in the Site sufficient for Seller to be able to construct, interconnect, operate and maintain the Facility on the Site and deliver Net Energy up to the Delivery Point for the Term and for Buyer to acquire, own, operate and maintain the Facility on the Site if Buyer acquires the Facility through exercise of its option, right of first refusal or right of first offer rights as provided in this Agreement;

(c) perform or cause to be performed all due diligence inspection, evaluation, testing and investigation activities relating to the suitability of the Site for the construction and operation of the Facility, the generation and delivery of Net Energy to the Delivery Point and the technical, construction, operation, financial and economic viability of the Facility;

(d) apply for, obtain, maintain, comply with and, as necessary, renew, and modify from time to time the Permits and all other permits, certificates, consents, approvals, licenses, or other authorizations which are required by any applicable Laws or Governmental Authority as prerequisites to engaging in the ownership, construction or operation of the Facility and the production, sale and delivery of Net Energy at

the Delivery Point as required by this Agreement and to fulfilling Seller's obligation to operate the Facility consistently with the terms of this Agreement;

(e) construct, commission, start-up, performance test and complete the Facility in a good and workmanlike manner using new and proven equipment, materials and other items in accordance with applicable Laws, Permits, Prudent Utility Practice, requirements of Governmental Authorities and regulatory authorities and the plans, drawings, specifications and models prepared by or for Seller;

(f) operate, maintain, repair and provide access control and security for the Facility in accordance with this Agreement and Prudent Utility Practice;

(g) obtain and maintain policies of property, delay-in-startup, business interruption, general liability insurance and other policies of insurance in accordance with Article IX and Attachment D;

(h) comply with all System Operator Instructions pursuant to the applicable agreements for generator interconnection service, and cooperate with all reasonable requests by Buyer relating to Buyer's compliance with any such instructions relating to deliveries of Net Energy from the Facility; and

(i) use Commercially Reasonable Efforts to develop with Buyer mutually agreeable written Operating Procedures not less than sixty (60) days before the scheduled commencement of production of Test Energy at the Facility as coordinated by the Parties. The Parties agree that any Operating Procedures mutually agreed upon will describe the protocol under which the Parties will perform their respective obligations under this Agreement and are intended to include procedures concerning the following: (1) the method of day-to-day communications; (2) key personnel lists for Seller and Buyer; (3) reporting of scheduled maintenance, Maintenance Outages, or Scheduled Outages of the Facility; (4) installation by Buyer of equipment, control, data acquisition and associated communication infrastructure to enable Buyer to monitor, measure and communicate pertinent operation and weather data; and (5) other matters as reasonably requested by Buyer. The Operating Procedures, as they may be modified from time to time, will be attached to and incorporated into this Agreement as Attachment L.

5.2 Additional Obligations of Seller.

(a) Taxes. Seller, during the Term of this Agreement, shall make all filings and reports relating to and pay all present or future federal, state, municipal, or other lawful taxes, assessments, impositions, fees, charges, penalties and interest applicable to Seller, or the ownership, operation, control or production by the Facility, or by reason of the production, storage, delivery or sale of Net Energy, Environmental Attributes and Capacity Attributes by Seller to Buyer up to and at the Delivery Point under this Agreement.

(b) Change in Law, Variable Integration Costs. Seller shall be responsible for the payment of all costs, expenses, fees and charges that arise out of, are incurred or result from any change in any applicable Law that occurs after the Effective Date that impose new or additional (i) obligations on a Party to obtain or provide transmission service or ancillary services prior to the Delivery Point, or (ii) variable integration charges or imbalance costs, fees, penalties, or expenses, or (iii) provide benefits that, in the case of either clauses (i) or (ii), are imposed, assessed or credited by the System Operator based on the impacts of energy generated by variable generation projects generally (collectively, the "Variable Integration Costs"). Seller shall be responsible for all Variable Integration Costs, irrespective of whether the Variable Integration Costs are assessed against Seller or Buyer, and to the extent any Variable Integration Costs are paid by Buyer, Seller shall promptly reimburse Buyer for such Variable Integration Costs.

(c) Station Power. Seller shall purchase all station power and energy used by the Facility and not produced by the Facility. Seller acknowledges that (i) Seller must obtain station power independently, (ii) Seller's contract for station power is not binding on the Buyer or a related party, (iii) Seller's contract for station power does not create any rights between Seller and the Buyer or a related party with regard to station power, and (iv) Seller's contract for station power does not affect the Parties' rights and obligations under this Agreement.

(d) Compliance. Seller shall (i) maintain, renew and keep in full force and effect its organizational existence and good standing, and take all reasonable action to comply with and maintain all Permits, rights, privileges, licenses, and franchises necessary or desirable in the ordinary course of its business and the ownership, operation or control of the Facility; (ii) comply with all Permits and applicable Laws, and (iii) comply with and enforce all Project Contracts, material agreements, instruments and undertakings related to the Facility, except to the extent that any failure to so comply has not had, or is not reasonably likely to have, a material adverse effect on Seller's performance of its material obligations hereunder or Buyer's rights, property and interests in and under this Agreement.

(e) Project Contracts. Upon Buyer's request, subject to any restrictions under applicable Law or restrictions under contracts with third parties, Seller shall make available for Buyer's review complete copies of any or all of the Project Contracts, Permits and other information in Seller's possession, custody or control regarding the permitting, design, engineering, construction, testing, condition, maintenance and operation of the Facility, as Buyer may, from time to time reasonably request to confirm, verify and/or measure Seller's performance of its obligations and Buyer's rights to acquire the Facility; provided, however, that Seller to the extent permissible under applicable Law and consistent with the terms, conditions, provisions and procedures under this Agreement regarding confidential information, may reasonably redact confidential information from Project Contracts reasonably limited to pricing and other non-public proprietary information to be made available to Buyer to comply with reasonable confidentiality obligations in favor of third parties. Subject to any restrictions under applicable Law or restrictions under contracts with third parties, Seller shall provide to Buyer all information, instruments, documents, statements, certificates and records relating to this Agreement and/or the Facility in its possession, custody or control as requested by Buyer concerning any administrative, regulatory, reliability, compliance, or legal requirements determined by Buyer to fulfill and comply with any applicable Laws, regulatory or reliability reporting requirements or otherwise relating to any request by any Governmental Authority. Seller shall, at its own expense, provide Buyer with all information requested by Buyer to register, verify, or otherwise obtain the approval of any Governmental Authority, or any other third party recognition of the Net Energy, Environmental Attributes, RECs and Capacity Attributes sold and transferred hereunder for use by Buyer, and at Buyer's request, Seller shall register, verify, or otherwise validate or obtain the approval of any Governmental Authority, or any other third party recognition, of the Net Energy, Environmental Attributes, RECs and Capacity Attributes sold hereunder for use by Buyer.

(f) Environmental Liability. Seller shall indemnify, defend, and hold Buyer harmless from and against all Environmental Liability; provided that as between Seller and Buyer, Buyer shall be responsible for any Environmental Liability to the extent caused by the gross negligence or intentional misconduct of Buyer or any of its officers, employees, agents, contractors or subcontractors while at the Facility.

(g) Intellectual Property. Seller shall indemnify, defend, and hold Buyer harmless from and against all losses, liabilities or claims, including reasonable attorney's fees and court costs arising out of or relating to infringement, misuse or misappropriation of intellectual property associated with the construction, operation or maintenance of the Facility.

(h) Personal Injury. Seller shall indemnify, defend and hold Buyer harmless from and against all losses, liabilities or claims, including reasonable attorney's fees and court costs, of any and all Persons for personal injury (including death) or property damage arising from or out of the design, construction, operation, maintenance and repair of the Facility.

(i) Interconnection. The Facility shall be interconnected with the Transmission System in accordance with the requirements for generator interconnection pursuant to the applicable NERC requirements and the Interconnection Agreement. Periodic testing of real and reactive power shall be conducted in accordance with NERC reliability requirements and the results of such test shall be promptly delivered to Buyer.

(j) Cost of Facility; Tax Attributes. Notwithstanding any provision of this Agreement to the contrary, Seller agrees that: (i) Buyer shall have no obligation, liability or responsibility whatsoever for any costs, expenses and/or Taxes relating to the design, development, equipping, construction, ownership, operation, maintenance, repair, alteration or decommissioning of the Facility including the Seller Interconnection Facilities (including any financing or refinancing costs, or any costs, charges and/or Taxes imposed by any Governmental Authority on or with respect to emissions or Energy from or relating to the Facility, including costs and/or Taxes related to any emissions allowances inter alia for oxides for sulfur dioxide or nitrogen, carbon dioxide, and mercury), all of which shall be entirely at Seller's sole cost and expense; and (ii) any risk as to the availability of Tax Attributes, grants or any other incentives relating to the design, development, construction, maintenance, ownership, production, or operation of the Facility shall be borne entirely by Seller. If any Tax Attributes, grants, or any similar incentives or benefit relating to the Facility and/or Seller is unavailable or becomes unavailable at any time during the Term of this Agreement, Seller agrees that such event or circumstance will not: (x) constitute a Force Majeure event or Regulatory Event; (y) excuse or otherwise diminish in any way Seller's obligations or covenants hereunder; or (z) give rise to any right by Seller to suspend, defer, terminate, reduce or avoid performance under this Agreement. Seller agrees that it will solely and fully bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Facility's eligibility to receive or otherwise qualify for any preferential or accelerated depreciation, accounting, reporting, or tax treatment. In the event that after the Effective Date new Tax Attributes become available in connection with the ownership and operation of the Facility and/or the production, storage or delivery of renewable energy, Buyer reserves the right to negotiate a mechanism realize or equitably share the benefits thereof.

(k) Interconnection Agreement. Seller agrees and acknowledges that the Interconnection Agreement will be a separate agreement between Seller and System Operator. The Interconnection Agreement will govern all obligations and liabilities set forth in the Interconnection Agreement, and Seller shall be solely and fully responsible for all costs and expenses for which Seller is responsible under the Interconnection Agreement. Notwithstanding any provision in this Agreement, nothing in the Interconnection Agreement, nor any other agreement between Seller on the one hand and System Operator on the other hand, nor any alleged event of default thereunder, shall affect, alter, or modify the Parties' respective rights, duties, obligations, and liabilities hereunder. This Agreement shall not be construed to create any rights between Seller and System Operator, and the terms of this Agreement are not binding on System Operator. Seller agrees and acknowledges that the System Operator will be solely responsible for its functions and that nothing in this Agreement will be construed to create any rights between Seller and the System Operator, and Seller agrees to fully comply with all System Operator Instructions, alerts, notices and communications.

(l) Operations Logs and Access Rights. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include information on power production, solar insolation, efficiency, availability, maintenance performed, Maintenance Outages, Scheduled Outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain this information for at least two (2) years and shall provide this information electronically in an agreed format to Buyer within five (5) days of Buyer's commercially reasonable request.

(m) Buyer Access. Buyer, its authorized agents, designees and employees shall have the right of ingress to and egress from the Site and Facility during normal business hours upon reasonable advance notice and for any purposes reasonably connected with this Agreement. Buyer's agents, designees and employees shall observe all applicable Facility safety rules that Seller has communicated to Buyer; and provided further that Buyer, subject to and without waiving its rights, immunities, exemptions, affirmative defenses, defenses and limitations of liability arising from or relating to sovereign immunity under Florida Statutes, shall be responsible for damage to property or injury to persons to the extent caused by the

negligent or wrongful act or omission of Buyer's authorized agents, designees or employees while such authorized individuals are at the Site or the Facility on behalf of Buyer.

(n) Documents for Compliance. Seller shall provide to Buyer in a format and medium acceptable to Buyer all information, instruments, documents, statements, certificates, and records relating to this Agreement and/or design, permitting, equipping, construction, testing, operation, repair or maintenance of the Facility including such information, documents and items as requested by Buyer concerning any administrative, regulatory, compliance, or legal requirements determined by Buyer to fulfill any applicable Laws, regulatory reporting requirements or otherwise relating to any request by any Governmental Authority. Seller shall, at its own expense, provide Buyer with all information requested by Buyer to register, verify, or otherwise obtain any Governmental Authority approval or any other third party recognition of the Net Energy, Environmental Attributes and Capacity Attributes for use by Buyer, and at Buyer's request Seller shall register, verify, or otherwise validate or obtain any Governmental Authority approval and/or any other third party recognition thereof.

(o) Development and Performance of Facility. Seller acknowledges that any written notice and information required by Buyer is solely for monitoring purposes, and that nothing contained in this Agreement shall create or impose upon Buyer any obligation, responsibility or liability arising out of or relating to the development, design, financing, permitting, equipping, construction, ownership, operation or maintenance of the Facility or Seller Interconnection Facilities.

(p) Meteorological Stations.

(i) No later than one hundred and twenty (120) days after the Effective Date, Seller, at its own expense, shall install and maintain at least two (2) stand-alone meteorological stations at the Site to monitor, measure, record, communicate and report the meteorological data specifically required in Section 5.2(p)(ii) and as necessary for the Parties to perform their respective obligations and exercise their respective rights under this Agreement. Seller shall maintain, enhance, upgrade, relocate and/or replace meteorological stations as necessary to assure the availability, storage, communication, reliability, quantity and quality of data with respect to the Site and location of the Facility.

(ii) Upon Commercial Operation, and continuing through the end of the Term, Seller shall record and maintain the following data on a continuous basis through mutually agreeable data exchange protocols developed by the Parties: (A) real and reactive power production by the Facility for each hour; (B) changes in operating status, outages and maintenance events; (C) any unusual conditions found during inspections; (D) any significant events related to the operation of the Facility; (E) one (1) minute and hourly time-averaged measurements from data samples at four (4) seconds or greater frequency for the following parameters at the Facility: total global horizontal irradiance, total global radiation within the plane of the array, air temperature, relative humidity, wind direction and speed, precipitation, barometric pressure, back of module surface temperature, and other pertinent meteorological conditions; and (F) data reasonably requested by Buyer.

(iii) Buyer shall have real-time access to the required meteorological data at a frequency not to exceed every five (5) minutes. Seller shall provide Buyer a report within ten (10) days after the end of each month that provides the foregoing information in Section 5.2(p)(ii) for such month as well as any other additional information that Buyer reasonably requests regarding conditions at the Site and the operation of the Facility that is collected and maintained by Seller in the ordinary course of Facility operations.

(iv) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site.

(v) Buyer shall have the right to install equipment and associated communication infrastructure to enable Buyer to monitor, measure, store and communicate pertinent operation and weather data at the Site and Facility.

(q) **Signage at Facility.** Seller shall install signage at the Site that informs the public of Buyer's involvement with the Facility as a purchaser of Net Energy, Environmental Attributes and Capacity Attributes produced by the Facility. The Parties shall work in good faith to determine the appropriate location and specifications of such signage, but in no event shall such signage be less visible or informative than signage which Seller provides for itself at the Site. The Parties shall also work in good faith to collaboratively plan and execute all public communications and events related to the Facility, including any press releases, groundbreakings, ribbon cuttings or other ceremonies, and ongoing media or other public announcements during the Term. Seller reserves the right to require that all persons attending such events at the Site sign Seller's standard waiver of liability in order to be allowed access to the Site and the Facility. Buyer may provide or install, at its own expense and in a manner that does not interfere with the normal operation of the Facility, displays or other materials that support public education regarding the Facility.

5.3 **Specific Obligations Related to Construction.**

(a) **Construction of Facility.** Seller shall design, equip, install, construct, commission, start-up, performance test and complete the Facility in a good and workmanlike manner. Not less than thirty (30) days prior to the commencement of construction and installation of the Facility, Seller shall notify Buyer of the intended date of commencement of construction activities at the Site. Buyer shall have the right to monitor and observe construction and installation of the Facility for Buyer's purposes and without thereby relieving Seller of any obligation, duty or responsibility hereunder. Upon completion of the construction and installation of the Facility, Seller shall provide Buyer with "as-built" drawings of the Facility and surveys, manuals and test results and reports setting forth in as sufficient detail as required by Buyer in its reasonable discretion, information regarding operation and the location of all components of the Facility.

(b) **Status Reporting.** Within five (5) days after the end of each calendar month following the Effective Date and until the end of the month in which the Commercial Operation Date occurs, Seller shall prepare and submit to Buyer a written status report which shall cover the status and progress of Seller's efforts for development, permitting, financing, procurement and construction activities during the previous calendar month, in a manner and format (hard copy and electronic) substantially in the form of Attachment G, or as otherwise reasonably acceptable to Buyer and, to the extent that design and construction activities have commenced, shall include (i) a detailed description of the progress of the Facility design and construction, (ii) a statement of any significant issues which remain unresolved and Seller's recommendations for resolving the same, (iii) a summary of any significant events which are scheduled or expected to occur during the following thirty (30) days, and (iv) all additional information reasonably requested by Buyer. If Seller has reason to believe that the Facility is not likely to timely achieve any Milestone by the applicable Milestone Deadline, Seller shall include in the Status Report information regarding the cause and extent of the delay and Seller's plan to overcome the delay and achieve the Milestone.

5.4 **Buyer Right to Alternative Agreement.** If Buyer terminates this Agreement pursuant to its termination rights thereunder, in addition to Buyer's other rights, remedies and benefits, for a period of two (2) years following the date of such termination (a) Buyer shall have an exclusive right pursuant to this Section 5.4 to enter into an Alternative Agreement to purchase the Net Energy, Environmental Attributes and Capacity Attributes from the Facility, or any portion thereof as specified by Buyer under an Alternative Agreement, or any other photovoltaic solar electric generating facilities on the Site, under an Alternative Agreement, and (b) Seller shall not be entitled to sell the Net Energy produced by the Facility or such other photovoltaic solar electric generating facilities unless Seller, prior to making an offer to, accepting an offer from or entering into any agreement with any other Person regarding the sale of the Net Energy produced by the Facility or such other photovoltaic solar electric generating facilities, shall have provided written notice to Buyer that Seller is prepared to enter into an Alternative Agreement to sell all the Net Energy produced by the Facility or such other photovoltaic solar electric generating facilities to Buyer. If Buyer provides written notice to Seller within one hundred twenty (120) days of the date that Buyer receives such notice from Seller that Buyer desires to exercise its right to enter into an Alternative Agreement, then the

Parties shall enter into good-faith negotiations to make those limited changes to the Alternative Agreement as are necessary and appropriate to reflect the development, construction, regulatory and operation status of the Facility or other photovoltaic solar electric generating facility at the time the Alternative Agreement is entered into, the dates by which actions are to be taken by the Parties under the Alternative Agreement, and similar matters within sixty (60) days after delivery of Buyer's notice, and the Parties shall execute and deliver the Alternative Agreement no later than one hundred twenty (120) days following Buyer's notification to Seller of the exercise of its option pursuant to this Section 5.4. If Buyer does not provide written notice to Seller within one hundred twenty (120) days after receiving Seller's notice, then Buyer shall have no further rights with respect to the Facility or any other photovoltaic solar electric generating facilities on the Site, and Seller may sell the output of the Facility or such other photovoltaic solar electric generating facilities without further restriction. This Section 5.4 shall survive the termination of this Agreement.

5.5 **Buyer Obligations; Distribution and Transmission Service.** Buyer shall, at its expense, be responsible for obtaining firm service over the Transmission System to the extent such service is necessary for delivery of the Net Energy of the Facility from the Delivery Point. Prior to the commencement of Test Energy by the Facility, the Parties shall cooperate and coordinate start-up of the Facility with completion of all essential facilities within Buyer's control which are required to be operational prior to Buyer's receipt of Net Energy.

5.6 **Buyer Cooperation.** Buyer agrees to cooperate with Seller upon reasonable written request by Seller to provide certain reasonable information in Buyer's possession needed to support applications by Seller for Permits, certificates or other authorizations relating to the construction and operation of the Facility and generation, delivery and sale of Net Energy. Buyer's obligation under this Section 5.6 shall consist only of providing nonproprietary, non-confidential information in its possession, custody or control necessary for Seller to complete such applications and responding to requests in writing from relevant Governmental Authorities or other Persons relating to the Permit process.

5.7 **Standard of Care.**

(a) **Requirements of Law.** Seller shall comply with all requirements of applicable Laws, Permits, use and other conditions or restrictions relating to the Site and NERC relating to the Facility, including those related to design, equipping, construction, ownership, interconnection and/or operation of the Facility and production and delivery of Net Energy.

(b) **Reliability; Transmission.** Seller shall comply with (i) all applicable NERC reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Facility, including the requirements of the System Operator.

(c) **Prudent Utility Practice.** As applicable, each Party shall perform all generation, storage, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of Prudent Utility Practice.

**ARTICLE VI
ELECTRICITY PRODUCTION AND PLANT MAINTENANCE**

6.1 **Forecasting and Availability.**

(a) **Forecast for Contract Year.** No later than one hundred eighty (180) calendar days prior to the projected Commercial Operation Date, and thereafter sixty (60) days prior to October 1 of each Calendar Year thereafter during the Term or other date as agreed by in accordance with the Operating Procedures, and without waiving any rights of Buyer or the requirements and obligations of Seller set forth in Section 3.5, Seller shall submit to Buyer in writing a good faith estimate of each month's average-day Net Energy to be generated by the Facility and delivered to Buyer during the following Calendar Year, as well as a

forecast of the estimated Net Energy to be generated during each hour of the next quarter, including the time, duration and magnitude of any scheduled maintenance period(s) or reductions in Net Energy to be delivered to Buyer. These forecasts shall include an expected range of uncertainty based on historical operating data and experience. Seller shall update the forecast for each month (for the annual forecast and the quarterly forecast) at least five (5) Business Days before the first Business Day of such month. In addition, Seller shall update a forecast at any time information becomes available indicating a change in the forecast relative to the then-current forecast delivered by Seller.

(b) Five-Day, Day-Ahead, In-Day Forecast. Seller shall provide or cause to be provided to Buyer a copy of a non-binding rolling one hundred and twenty (120) hour forecast of the expected Net Energy production from the Facility, by hour, for each upcoming five (5) day period. This forecast shall include an expected range of uncertainty based on historical operating data and experience. On or before 0500h Eastern Prevailing Time on the Business Day immediately preceding the day on which Net Energy is to be delivered, Seller shall provide Buyer with an hourly forecast of the Net Energy production from the Facility for each hour of the next day. A forecast provided on a day before any non-Business Day shall also include forecasts for each day to and including the next Business Day. Seller shall also provide in-day forecasting in fifteen (15) minute intervals for the next four (4) hours updated at top of the hour. Seller shall update a forecast any time information becomes available indicating a change in the forecast of the Net Energy from the then-current forecast. The Parties shall cooperate to implement and use automatic forecast updates to the extent feasible. Without limiting the foregoing, Buyer shall utilize availability data provided by Seller to create rolling forecasts of expected Net Energy production, by hour, for the next forty-eight (48) hours. To the extent Seller provides such forecasts it shall prepare such forecasts and updates (or cause such forecasts and updates to be prepared) by utilizing a solar forecasting model or service (a) that is commercially available or proprietary to Seller or an Affiliate of Seller (in which case the source code thereof shall be escrowed for use by Buyer, in the event of Seller's failure, refusal, default or inability to perform its obligations hereunder), and (b) reasonably comparable to models or services commonly used in the solar energy industry and that reflect solar availability, so long as such model or service, and upgrades and updates thereof, are available at a commercially reasonable cost.

(c) Variances. In the event that Seller has any information or other commercially reasonable basis to believe that the production of Net Energy from the Facility on any day will be materially lower or higher than what would otherwise be expected based on the forecasts provided pursuant to Section 6.1, then Seller will inform Buyer of such circumstance by 0500h Eastern Prevailing Time on the preceding Business Day.

(d) Communication. Seller shall communicate forecasts in a form, template, substance, and manner as reasonably requested by Buyer (e.g. Excel template), which form, template, substance, and manner may be modified by Buyer from time to time. Forecasts shall be transmitted by email or by other media (e.g. website upload) in accordance with the procedure provided in the Operating Procedures or as Buyer may otherwise instruct Seller from time to time. Requested forecast data may include but is not limited to, location, forecast timestamp, site capacity, a flag for actual or forecasted data, available site capacity, energy, explanation of cause for any capacity reduction, site plane of array irradiance, air pressure, and relative humidity for each hour of the next seven (7) days.

(e) History Communication. Seller shall communicate history in a form, template, substance, and manner as reasonably requested by Buyer (e.g. Excel template), which form, template, substance, and manner may be modified by Buyer from time to time. The history shall be transmitted by email or by other media (e.g. website upload) in accordance with the procedure provided in the Operating Procedures or as Buyer may instruct Seller from time to time. Requested historical data may include but is not limited to, location, site capacity, a flag for actual or forecasted data, available site capacity, energy generated, reason for any capacity reduction, site plane of array irradiance, air pressure, and relative humidity for each hour of the previous seven (7) days.

6.2 **Plant Maintenance.**

(a) **Planned Outages.** The Parties agree to coordinate planned maintenance schedules for the temporary operational removal of the Facility from service to facilitate performance of work on specific components in accordance with a pre-planned operations schedule, such as for a planned annual overhaul, inspections, or testing of specific equipment, components or elements of the Facility. Seller agrees to provide its proposed planned maintenance schedule for the next Calendar Year by October 1st of each Calendar Year. By October 31 of such Calendar Year, Buyer shall notify Seller in writing whether Seller's planned maintenance schedule is acceptable. If Buyer does not accept a particular planned maintenance period scheduled by Seller, Buyer shall advise Seller of alternative time periods when the outage can be scheduled. Seller shall schedule outages only during periods (i) that are consistent with the Operating Procedures, or (ii) approved by Buyer, and such approval shall not be unreasonably withheld (each a "**Scheduled Outage**"). Once the schedule for the maintenance plan has been established and approved, either Party requesting a subsequent change in such schedule, except when the change is due to Force Majeure, must obtain approval for such change from the other Party. Seller shall plan Scheduled Outages for the Facility in accordance with Prudent Utility Practice. Seller shall use its Commercially Reasonable Efforts in accordance with Prudent Utility Practice to not plan Scheduled Outages during the following periods: June 1 through September 30. Scheduled Outages, in aggregate, shall not exceed seven (7) days during any Contract Year.

(b) **Maintenance Outages.** If Seller needs or desires to schedule a Maintenance Outage of the Facility, Seller shall notify Buyer, as far in advance as reasonable and practicable under the circumstances, of such proposed Maintenance Outage, and the Parties shall plan such outage to mutually accommodate the reasonable requirements of Seller and expectations of Buyer for generation and delivery of Net Energy. Notice of a proposed Maintenance Outage shall include the expected start date of the outage, the amount of generation from the Facility that will not be available and the expected completion date of the outage. Buyer may request reasonable modifications in the schedule for the outage. Subject to its operational and maintenance needs, Seller shall comply with such requests to reschedule a Maintenance Outage. If rescheduled, Seller shall notify Buyer of any subsequent changes in the output that will not be available to Buyer and any changes in the Maintenance Outage completion date as soon as practicable, and any communication given orally shall be promptly confirmed in writing as soon as practicable.

(c) **Emergency Conditions.** Seller shall promptly provide to Buyer an oral report of all outages, Emergency Conditions, de-ratings, major limitations, or restrictions affecting the Facility. Such report shall include the cause of such restriction, amount of generation from the Facility that will not be available because of such restriction, and the expected date that the Facility will return to normal operations. Seller shall update such report as necessary to advise Buyer of any materially changed circumstances relating to the conditions, limitations and restrictions of the Facility. As soon as practicable, all oral reports shall be confirmed in writing. Seller shall promptly dispatch personnel and/or service provider to perform the necessary repairs or corrective action in an expeditious and safe manner in accordance with Prudent Utility Practice.

(d) **Facility Output.** Seller shall act in a Commercially Reasonable manner to maximize the output of the Facility (consistent with the Facility Rating) to generate and deliver the Net Energy and to minimize the occurrence, extent, and duration of any event adversely affecting the generation and delivery of Net Energy to Buyer, in each case consistent with Prudent Utility Practice.

6.3 **Communication.** Seller shall use Commercially Reasonable Efforts to comply with operating plans, procedures and protocols and reasonable requests by Buyer regarding day-to-day and hour-by-hour communication between the Parties relative to Net Energy production and maintenance scheduling.

6.4 **Seller's Plant Personnel.** During the Term, Seller shall employ, or cause a qualified service provider engaged by Seller to employ qualified personnel for managing, operating and maintaining the Facility and for communicating and coordinating with Buyer. Seller shall ensure that operating

personnel are available at all times, twenty-four (24) hours per calendar day and seven (7) calendar days per week. During the Term, Seller shall operate and maintain the Facility in such manner as to ensure compliance with its obligations hereunder and in accordance with applicable Law, Permits, Site requirements and Prudent Utility Practice.

ARTICLE VII METERING

7.1 **Metering Equipment.** The Net Energy delivered to Buyer shall be derived from data measured by the meter(s) and associated telecommunications equipment owned by Buyer and installed at the Delivery Point by Buyer ("Buyer's Meter(s)") consistent with the requirements of the Interconnection Agreement for generator interconnection of the Facility. The Parties acknowledge and agree that Buyer shall be authorized to receive meter data and to physically access the Buyer's Meter at all times. Seller shall be responsible for paying all costs relating to the Buyer's Meter, including procurement, installation, operation, calibration, repair, replacement and maintenance. Seller shall ensure in its arrangement with System Operator for the Buyer's Meter to include communication equipment that enables Buyer to access and read the meter remotely. Seller shall provide Buyer (at Seller's cost) with appropriate telephonic/electronic communication to allow Buyer to remotely access and read the meter. Except as provided in Sections 7.2 and 7.3, Buyer's Meter(s) shall be used for quantity measurements and billing under this Agreement. Seller, at its sole expense, may install and maintain check meters and all associated measuring equipment necessary to measure the quantities of Net Energy delivered under this Agreement; provided, however, that such equipment shall be operated and maintained in a manner that does not interfere with the installation, maintenance, and operation of Buyer's Meter(s).

7.2 **Measurements.** Readings of Buyer's Meter(s) made by Buyer shall be conclusive as to the amount of Net Energy delivered to Buyer hereunder; provided, however, that if Buyer's Meter(s) is out of service or is determined, pursuant to Section 7.3, to be registering inaccurately, measurement of Net Energy delivered hereunder shall be determined in the following order:

- (a) Seller's check meter, if installed, annually tested and registering accurately; or
- (b) In the absence of an installed, annually tested and accurately registering check meter installed and maintained by Seller, making a mathematical calculation if, upon a calibration test of Buyer's Meter, a percentage error is ascertainable; or
- (c) In the absence of an installed, annually tested and properly registering check meter installed and maintained by Seller, and an ascertainable percentage of error in Buyer's Meter, estimating by reference to quantities measured during periods of similar conditions when Buyer's Meter was registering accurately; or
- (d) If no reliable information exists as to the period over which Buyer's Meter was registering inaccurately, it shall be assumed for correction purposes hereunder that such inaccuracy began at a point in time midway between the testing date and the last previous date on which such meter was tested and found to be accurate; provided, however, that the deemed period of the inaccuracy shall not exceed one hundred eighty (180) days.

7.3 **Testing and Correction.** The accuracy of Buyer's Meter(s) shall be tested and verified by Buyer annually. Seller shall have the right, at its own expense, to test and verify Buyer's Meter(s) upon reasonable notice, provided such testing shall not exceed one (1) test during a Calendar Year unless there is good cause. If Seller has installed check meters in accordance with Section 7.1, Seller shall test and verify such meters no less than annually. Each Party shall bear the cost of the annual testing of its own meters.

(a) **Contested Reading.** If either Party disputes a meter's accuracy or condition, it shall notify the meter owner in writing. The meter owner shall, within fifteen (15) days after receiving such notice, advise the other Party in writing as to its position concerning the meter's accuracy and reasons for taking

such position. If the Parties are unable to resolve their disagreement through reasonable negotiations, either Party may submit such dispute to an unaffiliated third-party engineering company mutually acceptable to the Parties to test the meter.

(b) **Testing.** Should the meter be found to be registering within a one-half percent (0.5%) variance, the Party contesting the meter's accuracy shall bear the cost of inspection. Any repair or replacement of such a meter found to be operating beyond the permitted one-half percent (0.5%) variance shall be made at the expense of the owner of such meter as soon as practicable, based on the third-party engineer's report. If, upon testing, any meter is found to be in error by an amount greater than a one-half percent (0.5%) variance, such meter shall be repaired or replaced promptly, any previous recordings by such meter shall be adjusted in accordance with Section 7.2, any prior payments made for Net Energy and/or invoices for payments not yet made shall be adjusted to reflect the corrected measurements determined pursuant to Section 7.2. If the difference of the payments actually made by Buyer minus the payment based upon the corrected measurements is a positive number, Seller shall pay the difference to Buyer; if the difference is a negative number, Buyer shall pay the difference to Seller. In either case, the Party paying such difference shall also pay interest at the Default Rate as described in Section 8.1(d) for late payments and such payment (including such interest) shall be made within thirty (30) days of receipt of a corrected billing statement.

7.4 **Maintenance and Records.** Each Party has the right to be present whenever the other Party tests and/or calibrates the equipment used in measuring or checking the measurement of the Net Energy delivered hereunder. Each Party shall endeavor to give notice not less than five (5) days before commencement of any such testing or calibration, but in no event less than forty-eight (48) hours, to the other Party in advance of taking any such actions. The records from the measuring equipment remain the property of Seller or Buyer, respectively, but, upon request, each Party will provide access to the other, upon reasonable notice and during normal business hours, to review the Party's metering and billing and maintenance records relating hereto, including supporting documentation, necessary to verify the accuracy of bills. Each Party is permitted to audit such records of the other Party no more frequently than once each Calendar Year unless good cause exists for an additional or follow-up audit.

ARTICLE VIII BILLING AND PAYMENT

8.1 Billing and Payment.

(a) **Meter Reading.** Buyer shall read the meter or cause the meter to be read as soon as practicable after the last day of the previous calendar month and shall report such reading for the Net Energy delivered for the previous calendar month to Seller.

(b) **Seller Invoice.** Seller shall create and send an invoice to Buyer based on Buyer's Meter readings and deliveries of Net Energy.

(c) **Payment.** Buyer shall pay for Net Energy received by electronic funds transfer to Seller no later than thirty (30) days following Buyer's receipt of Seller's invoice. If such payment date falls on a day other than a Business Day, the due date shall be the next Business Day. In the event that the City adopts a uniform policy to pay vendor invoices in less than thirty (30) days, Buyer will reasonably consider a request by Seller to reduce the time for payment of Seller's invoices for Net Energy.

(d) **Late Charge.** Payments made by a Party to the other Party after the due date shall be considered late and shall bear interest on the unpaid balance at a rate equal to the rate specified under the Local Government Prompt Payment Act, 218.70, Florida Statutes (the "Default Rate"), for the days of the late payment period multiplied by the number of days elapsed from and including the due date, to but excluding the payment date. In the event this index is discontinued or its basis is substantially modified, the Parties shall agree on a substitute equivalent index.

(e) Payment Adjustment. If either Party shall find at any time within two (2) years after the date of any payment hereunder that there has been an overcharge or undercharge, the Party finding the error shall promptly notify the other Party thereof in writing. In the event of an undercharge, the payor, within thirty (30) days of the date of the notice of error, shall pay to the payee the amount due plus interest accruing at the Default Rate from the time of payment of the undercharge through the date of payment correcting the undercharge. In the event of an overcharge, the payee, within thirty (30) days of the notice of error, shall refund to the payor the overpayment plus interest accruing at the Default Rate from the time of payment of the overcharge through the date of payment correcting the overcharge.

(f) Record Review. Each Party shall have the right, at its sole expense during normal business hours, to examine the other Party's records, after prior notice to verify the accuracy of any statement, invoice, charge, notice, or computation made hereunder.

ARTICLE IX INSURANCE/CREDIT AND COLLATERAL REQUIREMENTS

9.1 Insurance.

(a) At all times during the Term of this Agreement, Seller shall maintain at its own expense insurance policies for the Facility and its tangible assets in such amounts and against such risks and losses as set forth in Section 9.1(b) and Attachment D. Within ten (10) Business Days after receipt of a request for the same from Buyer, Seller shall deliver to Buyer a certificate of insurance for any or all policies which Seller is required to maintain in accordance with this Section 9.1, which certificate shall include at least the following information: (i) the name of the insurance company, policy number and expiration date; and (ii) the coverage and limits on coverage, including the amount of deductibles or self-insured retentions. Limits of such policies shall be at amounts specified or such higher amounts as Seller and Financing Party determine to be consistent with Prudent Utility Practice.

(b) Seller shall procure and maintain the minimum insurance requirements set forth in Attachment D, with insurers rated "A-" VII or higher by A.M. Best's Key Rating Guide that are licensed to do business in Florida.

(c) Except for Workers' Compensation Insurance, Buyer shall be endorsed as an additional insured on Seller's insurance policies required to be maintained under this Agreement and such policies shall provide for a waiver of subrogation in favor of Buyer and its officers, officials, representatives, agents or employees. All policies of insurance required to be maintained by Seller hereunder shall provide for a severability of interests clause and include a provision that Seller's insurance policies are to be primary and non-contributory to any insurance that may be maintained by or on behalf of Buyer.

(d) In the event that any policy furnished by Seller provides for coverage on a "claims made" basis, the retroactive date of the policy shall be the same as the Effective Date of this Agreement, or such other date, as to protect the interest of Buyer. Furthermore, for all policies furnished on a "claims made" basis, Seller's providing of such coverage shall survive the termination of the Agreement and the expiration of any applicable warranty period, until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. If coverage is on "occurrence" basis, Seller shall maintain such insurance during the entire term of this Agreement.

(e) Following execution of this Agreement and annually thereafter, Seller shall promptly provide evidence of the minimum insurance coverage required under this Agreement in the form of an ACORD certificate or other certificate of insurance. If any of the required insurance is cancelled or non-renewed, Seller shall within thirty (30) days provide written notice to Buyer and file a new certificate of insurance with Buyer, demonstrating that the required insurance coverage to be maintained hereunder has been extended or replaced. Neither Seller's failure to provide evidence of minimum coverage of insurance following Buyer's request, nor Buyer's decision to not make such request, shall release Seller from its obligation to maintain the minimum coverage required by this Section 9.1 and Attachment D.

(f) Seller shall be responsible for covering all deductibles associated with the required insurance coverages.

(g) Buyer acknowledges that the Financing Party shall be entitled to receive and distribute any and all loss proceeds as stipulated by any Financing Documents related to any policy described in this Article IX. Seller shall use Commercially Reasonable Efforts to obtain provisions in the Financing Documents, on reasonable terms, providing for the insurance proceeds from All Risk Property/Comprehensive Mechanical and Electrical Breakdown Insurance to be applied to repair of the Facility.

(h) The insurances coverages and limits shall be reviewed annually by Buyer and if, in Buyer's discretion, Buyer determines that additional coverages should be maintained and/or the coverage limits should be increased, Buyer shall so notify Seller. Seller shall, within thirty (30) days of notice from Buyer, obtain such additional coverages and/or increase the coverage as directed in such notice and the costs of such additional coverages and/or increased coverage limits shall be borne by Seller.

(i) By requiring insurance herein, Buyer does not represent that the policies, coverages and limits will necessarily be adequate to protect Seller or any Financing Party, and such policies, coverages and limits shall not be deemed as a limitation on Seller's obligations or liabilities under the indemnities granted to Buyer in this Agreement.

(j) If the limits of available liability coverage required herein become substantially reduced as a result of claim payments, Seller shall promptly, at its own expense, purchase additional liability insurance (to the extent such coverage is available at commercially reasonable rates) to increase the amount of available coverage to the limits of liability coverage required herein.

9.2 Grant of Security Interest/Remedies. To secure its obligations under this Agreement, Seller hereby grants to Buyer a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, the Performance Assurance and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer. Each Party agrees to take such action as the other Party reasonably requires in order to perfect Buyer's first-priority security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting therefrom or from any draw on or the liquidation thereof. Upon, or at any time after the occurrence and during the continuation of, an Event of Default by Seller, or a Termination Date as a result thereof, or in connection with a claim by Buyer for damages or for indemnification under Article XIII, or as otherwise provided in this Agreement, Buyer may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such legal rights and remedies then in effect; (ii) exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the draw on or the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of Buyer free from any claim, interest or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller. Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Seller's obligations under this Agreement (Seller remaining liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to return any surplus proceeds remaining after such obligations of Seller are satisfied in full.

9.3 Development Period Security. In order to secure Seller's obligations prior to Commercial Operation of the Facility, at Seller's expense, Seller shall post and maintain in favor of Buyer the Development Period Security in accordance with the following terms and conditions:

(a) **Posting.** The Development Period Security shall be posted within thirty (30) days of the Effective Date of this Agreement. The failure of Seller to post such Development Period Security within thirty (30) days of the Effective Date of this Agreement shall be an Event of Default without any notice or

cure period and, Buyer may, at its sole and absolute discretion, exercise all available remedies, including to terminate this Agreement upon written notice to Seller on or after the thirtieth (30th) day following the Effective Date, and upon sending such notice Buyer shall be released and discharged from any obligation or liability hereunder.

(b) Draws. Buyer shall have the right to draw and retain the full amount of the Development Period Security in connection with, among other things, any of the following:

- (i) The termination of this Agreement pursuant to Section 3.1(b);
- (ii) The termination of this Agreement pursuant to Section 4.2;
- (iii) The termination of this Agreement pursuant to Section 11.2 by the Buyer as the non-defaulting Party.

(c) Cash Deposits. If all or a portion of the Development Period Security is posted in a cash deposit, such deposit shall be held by Buyer, in a form and under terms which are acceptable to Buyer and Seller, to pay claims made by Buyer pursuant to this Agreement.

(d) Letters of Credit. Any Letter of Credit provided by or for Seller as Development Period Security must provide, among other provisions, that the Buyer is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit rating of at least A- from S&P and a rating of at least A3 from Moody's and Seller or an Affiliate of Seller has failed, within ten (10) Business Days after receipt of notice thereof by Buyer to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to Buyer. All costs of a Letter of Credit or arising out of any draw on, replacement or replenishment of or transfer of a Letter of Credit provided by or for the benefit of Seller hereunder shall be borne by Seller.

(e) Change of Form of Security. After Seller has provided written notification to Buyer of the satisfaction of the Milestones, Seller may change the form of the Development Period Security at any time and from time to time upon reasonable prior written notice to Buyer; provided that the Development Period Security shall at all times fully satisfy the requirements of this Agreement, including the grant by Buyer requisite approvals of Buyer as required in this Agreement.

(f) Return of Development Period Security. Seller shall maintain the Development Period Security until, and Buyer shall return or release its interest in any of the undrawn Development Period Security, if any, within fifteen (15) days after, the earlier of, (i) the date on which Seller has posted the Delivery Term Security, and (ii) all payment obligations of the Seller arising under this Agreement, including any Termination Payment, indemnification payments and/or other damages, losses, costs and expenses are paid in full.

9.4 Delivery Term Security. In order to secure Seller's obligations during the Commercial Operation of the Facility, at Seller's expense, Seller shall post and maintain in favor of Buyer the Delivery Term Security in accordance with the following terms and conditions:

(a) Posting. On or before the fifth (5th) day following the Commercial Operation Date, Seller shall post the Delivery Term Security.

(b) Cash Deposits. When all or a portion of the Delivery Term Security is posted in a cash deposit, such deposit shall be held by Buyer, in a form and under terms which are acceptable to Buyer and Seller, to pay claims made by Buyer pursuant to this Agreement.

(c) Any Letter of Credit provided by Seller as Delivery Term Security pursuant to this Agreement must provide, among other things, that the Buyer is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit

rating of at least A- from S&P and a rating of at least A3 from Moody's and Seller or an Affiliate of Seller required to provide the Letter of Credit and Seller has failed, within ten (10) Business Days after receipt of notice thereof by Buyer to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to Buyer. Costs of a Letter of Credit provided by or for the benefit of Seller shall be borne by Seller.

(d) Change of Form of Security. Seller may change the form of the Delivery Term Security at any time and from time to time upon reasonable prior written notice to Buyer; provided that the Delivery Term Security shall at all times satisfy the requirements of this Agreement, including the requisite approvals of Buyer.

(e) Return of Security. Seller shall maintain the Delivery Term Security until, and Buyer shall return or release its interest in any of the undrawn portion of the Delivery Term Security, if any, within fifteen (15) days after, the later of (i) the expiration of this Agreement, or (ii) all payment obligations of the Seller arising under this Agreement, including any Termination Payment due under this Agreement, any indemnification payments or other damages, are paid in full.

(f) Replenishment. Seller shall fully replenish the Delivery Term Security to the full required amount within fifteen (15) days following a draw against the Delivery Term Security by Buyer.

ARTICLE X FORCE MAJEURE

10.1 **Force Majeure**. Force Majeure is defined as an event or circumstance that is beyond the reasonable control of and not caused by the negligence, willful misconduct or lack of due diligence of the Party claiming Force Majeure or that Party's Affiliates, service providers, vendors, contractors or suppliers, and that delays or prevents the performance by that Party of its obligations under or pursuant to this Agreement. Such events or circumstances may include actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, extreme floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected Party to comply with the terms of a collective bargaining agreement). However, the obligation to use reasonable diligence shall not be interpreted to require resolution of labor disputes by acceding to demands when such course is inadvisable in the discretion of the Party affected thereby. Payment of money shall not be excused by Force Majeure.

10.2 **Remedial Action**. Except to the extent expressly limited in Article IV, a Party shall not be liable to the other Party for failure to perform its obligations hereunder to the extent the affected Party is prevented from performing its obligations due to an event of Force Majeure which the affected Party was unable to prevent or avoid through Commercially Reasonable Efforts and compliance with Prudent Utility Practice. The Party rendered unable to fulfill any obligation by reason of a Force Majeure shall continue to perform its other obligations hereunder to the extent practicable and take all reasonable actions necessary to mitigate the impact of the Force Majeure event and remove such inability to perform the affected obligations with all due speed and diligence. Such partially performing or nonperforming Party shall be prompt and diligent in attempting to remove the cause of and address the impact of its inability to perform. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure. This Agreement may be terminated by the non-claiming Party upon ten (10) days prior written notice to the claiming Party with no further obligation to the Party impacted by Force Majeure if a Force Majeure event prevents the performance of a material portion of the obligations hereunder for a period of three hundred sixty-five (365) consecutive days or more. In the event of such termination, neither Party shall have any further obligation to the other Party under this Agreement except such obligations which have already accrued at termination and/or survive the termination or expiration of this Agreement.

10.3 **Exclusions from Definition of Force Majeure.** Notwithstanding anything in this Agreement to the contrary, "Force Majeure" shall not mean:

(a) Inclement weather affecting site work, construction, start-up, or operation of the Facility or related facilities that does not otherwise meet the definition of "Force Majeure;"

(b) Changes in market conditions or governmental action that affect the cost of Seller's supply of Net Energy from the Facility or the ability of the Seller to sell output of the Facility at a rate higher than the Contract Price, or the ability of Buyer to obtain energy at a rate lower than the Contract Price and/or other pricing provisions agreed upon by the Parties pursuant to this Agreement;

(c) A Party's inability to pay amounts due to the other Party under this Agreement, except if such inability is caused solely by a Force Majeure event that disables physical or electronic facilities necessary to transfer funds to the payee Party;

(d) Equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards and requirements of Permits and applicable Laws, or otherwise caused by an event originating in the control of a Party;

(e) Unavailability of equipment, repairs or spare parts for the Facility, except to the extent due to a qualifying event of Force Majeure; or

(f) Failure to obtain on a timely basis and maintain a necessary Permit or other-regulatory approval or any undue delay in obtaining, maintaining, or renewing any Permit, except to the extent due to a Force Majeure event.

10.4 **Notice.** In the event of any delay or nonperformance resulting from Force Majeure, the Party suffering the event of Force Majeure shall, as soon as practicable after the occurrence of the Force Majeure event but in no event more than ten (10) Business Days after the commencement of an event of Force Majeure (*i.e.*, the date performance is first delayed or prevented), notify the other Party in writing of the nature, cause, date of commencement thereof, and the anticipated extent of any delay or interruption in performance. The Party suffering the event of Force Majeure shall provide regular reports to the other Party regarding the progress to resume full performance of affected obligations.

10.5 **Termination.** Notwithstanding the claimed existence of a Force Majeure event or any other provisions of this Agreement, nothing herein shall relieve any Party from exercising any right or remedy provided under this Agreement with respect to any liability or obligation of the other Party that is not excused or suspended by the Force Majeure event, including the right to liquidate and early terminate this Agreement for any Event of Default not excused by the Force Majeure event.

10.6 **Representation.** Each Party represents to the other Party that as of the Effective Date it does not have knowledge of any event of Force Majeure or other event, occurrence, condition or circumstance which will have a material adverse effect on the performance of its obligations and covenants under and compliance with the terms of this Agreement.

ARTICLE XI DEFAULT, TERMINATION, REMEDIES

11.1 Events of Default.

- (a) Each of the following shall constitute an Event of Default:
- (i) a Party fails to make when due, any payment required pursuant to this Agreement;
 - (ii) Seller fails to achieve Commercial Operation of the Facility by the Scheduled Commercial Operation Date, as it may be extended in accordance with this Agreement if Seller does not timely request an Extension Period;

(iii) Seller fails to achieve Commercial Operation of the Facility by the expiration of the Extension Period, if applicable;

(iv) any of the representations, warranties or covenants made by a Party in this Agreement or in any certificate, instrument, affidavit, invoice or report is false or misleading in any material respect, or not performed as required in a timely manner, and is not cured within ten (10) days;

(v) a Party, or the entity that controls or owns a Party, or a Person providing assurances or security for the obligation of a Party is Bankrupt;

(vi) a Party fails to maintain in full force and effect any Permit necessary for such Party to perform its obligations under this Agreement if not cured within the applicable Cure Period;

(vii) in the case of Seller, the Facility fails to deliver seventy-five percent (75%) of the Guaranteed Energy Production in any two (2) consecutive Contract Years;

(viii) Seller fails to maintain and provide the required insurance for the required period of coverage as set forth in Article IX if not cured within the applicable Cure Period;

(ix) Seller makes an assignment of its rights or delegation of its obligations under this Agreement, or a sale, transfer or conveyance of Seller's rights, title and interests in or to the Facility and Facility assets that is not a Permitted Transfer occurs (whether voluntary or by operation of law), except as expressly permitted by this Agreement;

(x) There is any change in the nature, scope and priority of the right, title or interest of Seller in and to the Site that may have a material adverse effect or limit in any way the exercise by Buyer of the option to purchase, own and operate the Facility attributable to the action or inaction of Seller or an Affiliate;

(xi) Seller fails to provide, replenish, replace or maintain in full force and effect Performance Assurances required under this Agreement;

(xii) Seller fails to timely achieve any of the Required Milestones by the Milestone Deadline, as may be extended in accordance with 4.2, if not timely cured or Seller fails to provide a remedial action plan;

(xiii) Seller Abandons the development, construction, or operation of the Facility; and

(xiv) a Party fails to perform or breaches any provision of this Agreement not specifically enumerated in this Section 11.1, and such failure or breach is not cured within the applicable Cure Period, if any; provided, however, there is no Cure Period for those breaches or Events of Default referenced in Section 11.1(b) (iii) below.

(b) Except as otherwise provided herein, any defaulting Party shall have the following cure periods to accomplish the cure of any breach before it becomes an Event Default (the "Cure Period"):

(i) For breach of a monetary obligation: five (5) days following delivery of written notice that a payment is due unless such payment is disputed or contested pursuant to Article XIV below;

(ii) For breach of a nonmonetary obligation (other than as provided in Section 11.1(a) (iii) above): thirty (30) days following delivery of written notice of such breach; provided, that such defaulting Party shall have an additional period of time to cure such nonmonetary breach so long as the defaulting Party timely commences efforts to cure and is making a good faith, continuous effort to cure the breach, subject to the total Cure Period not to exceed ninety (90) days in the aggregate; and

(iii) Notwithstanding anything else herein to the contrary, there is no Cure Period for breaches of the provisions of Article IV, Sections 5.1(d) and (g), Section 5.3(c), or for the Events of Default referenced in Sections 11.1(a)(ii), (iii), (ix), (x) or (xiii) above.

(c) Each Party agrees to accept the cure of a breach by a defaulting Party offered by a Financing Party who has provided financing to such defaulting Party; provided that the non-defaulting Party is under no obligation hereunder to notify the Financing Party of any breach or of its ability to cure such breach hereunder.

(d) An Event of Default shall not have occurred hereunder until the applicable notice, if required, has been delivered and the applicable Cure Period, if any, has expired without the breach being cured.

(e) Notwithstanding anything expressed or implied herein to the contrary, nothing contained herein shall preclude either Party from pursuing any available remedies for breaches not rising to the level of an Event of Default except as expressly, specifically provided for herein, including recovery of damages caused by the breach of this Agreement and specific performance or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise.

(f) If an Event of Default of a Party wholly or partly affects the performance (or the ability to perform) of the other Party under this Agreement, then any non-performance by the non-defaulting Party shall be excused to the extent affected by the Event of Default.

11.2 **Termination.**

(a) In the event the defaulting Party fails to cure the Event of Default within the applicable Cure Period under Section 11.1, and the Event of Default is continuing, the non-defaulting Party may, in addition to its rights to withhold payment and suspend performance of its obligations hereunder, terminate this Agreement by notifying the defaulting Party in writing (the "Termination Notice") of the decision to terminate and the effective date of the termination (the "Termination Date"). If the non-defaulting Party terminates this Agreement and is owed a Termination Payment or other amounts hereunder, it shall provide to the defaulting Party along with its Termination Notice, or as soon as practicable after providing the Termination Notice, its calculation in writing of the Termination Payment that it is owed hereunder with reasonable detail as to its determination and any other amount due and owing by the defaulting Party. Termination of this Agreement for any reason shall not affect the accrued rights or obligations of either Party as of such termination.

(b) If this Agreement is terminated prior to the Commercial Operation Date for the failure of Seller to use diligent and Commercially Reasonable Efforts to accomplish any Required Milestone, Buyer's remedy for such failure shall be to draw on the full amount of the Development Period Security.

(c) If this Agreement is terminated for an Event of Default, a Termination Payment shall be (i) the Buyer Purchase Damages (if Buyer is the non-defaulting Party) as set forth in Section 11.4 or (ii) the Seller Sales Damages (if Seller is the non-defaulting Party) as set forth in Section 11.5, as applicable, plus any or all other amounts due to the non-defaulting Party as of the Early Termination Date netted into a single amount. The Termination Payment Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages (excluding replacement costs); provided, however, that any lost Net Energy, Capacity Attributes or Environmental Attributes, or sales thereof (as applicable) shall be deemed direct damages covered by this Agreement. Without prejudice to the non-defaulting Party's duty to mitigate, the non-defaulting Party shall not have to enter into replacement transactions to establish a settlement amount. Each Party agrees and acknowledges that (x) the actual damages that the non-defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (y) the Termination Payment described in this Section 11.2 is a reasonable and appropriate approximation of such damages, and (z) the Termination Payment is the exclusive remedy of the non-defaulting Party in connection with a termination of this Agreement occurring during the Delivery Term but shall not otherwise act to limit any of the non-defaulting Party's rights or remedies in respect of obligations and liabilities that are incurred prior to the Early Termination Date and such obligations and liabilities are not included in the calculation of the Termination Payment.

(d) If a non-terminating Party is entitled to a Termination Payment in connection with a termination of this Agreement, it shall provide to the other Party as soon as practicable after the termination, its calculation in writing of the Termination Payment that it is owed hereunder. In either case, the calculation of the Termination Payment shall be provided in writing by the Party to which the Termination Payment is owed hereunder to the other Party with reasonable detail as to its determination.

11.3 Buyer's Remedies upon Termination (No Seller Default) prior to the Commercial Operation Date. In the event that Buyer terminates this Agreement prior to the Commercial Operation Date due to Seller's failure notwithstanding diligent Commercially Reasonable Efforts to accomplish Required Milestones prior to the Commercial Operation Date, or this Agreement is terminated prior to the Commercial Operation Date as otherwise provided herein, then Seller's remaining liability to Buyer (except for those obligations surviving termination as described in Section 15.17) shall be a Termination Payment equal to the sum of the following, for which Buyer may draw on the Development Period Security: (i) all Extension Payments due and owing to Buyer by Seller, if any, plus (ii) the liquidated damages owed pursuant to the end of Section 4.2 and/or Section 9.3, if any, plus (iii) all Delay Damages due and owing to Buyer by Seller through the date of such termination, if any, plus (iv) all reasonable costs and expenses (including the reasonable expenses and fees of Buyer's attorneys and advisors) associated with the termination (as applicable), plus (v) all other amounts accrued and owing to Buyer from Seller hereunder. Upon Buyer's termination of this Agreement, Buyer shall have no further obligation to purchase Net Energy or any other output, product or service from Seller or the Facility.

11.4 Buyer's Remedies upon Seller Event of Default. In the event that Buyer terminates this Agreement due to an Event of Default by Seller then Seller's liability to Buyer (except for those obligations surviving termination as described in Section 15.17) for such termination shall be a Termination Payment in the amount of Buyer's Purchase Damages; provided that the Termination Payment shall not exceed the total Development Period Security prior to the Commercial Operation Date. Buyer shall calculate the Buyer's Purchase Damages in a Commercially Reasonable manner by using the average of market quotations provided by three (3) or more bona fide unaffiliated market participants, if available. The average of the quotes that are obtained shall be deemed to be the market price. The quotes obtained shall be: (i) for a like amount, (ii) of products and services comparable to the Net Energy, Environmental Attributes and Capacity Attributes being purchased by Buyer from Seller, (iii) at the same or reasonably similar Delivery Point, (iv) for the remaining Term, and (v) determined in any other Commercially Reasonable manner. In no event shall Buyer Purchase Damages include any penalties or ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets, contract rights or market positions to minimize Seller's liability. For the purposes of this computation, Buyer shall not be required to actually have purchased any replacement Net Energy to calculate Buyer Purchase Damages as set forth herein. If Buyer Purchase Damages are owed as a result of an Event of Default and the Buyer Purchase Damages are a negative number then the Buyer Purchase Damages shall be deemed to equal **Zero Dollars (\$0.00)**. Upon Buyer's termination of this Agreement, Buyer shall have no further obligation to purchase Net Energy or any other output, product or service from Seller or the Facility. Additionally, to the extent it does not conflict with the rights of a Financing Party under a Financing Document, Buyer shall have the option to purchase the Facility for a purchase price equal to the Fair Market Value of the Facility in accordance with the procedure set forth in Section 3.11, such option being exercisable at any time during the period twelve (12) months after the termination of this Agreement. Buyer's option to purchase the Facility under this Section 11.4 shall be in addition to the options to purchase which are the subject of Section 3.11(a).

11.5 Seller's Remedies upon a Buyer Default and Termination. In the event that Seller terminates this Agreement due to an Event of Default by Buyer, then Buyer's liability to Seller for such termination shall be a Termination Payment in the amount of Seller Sales Damages. Seller shall calculate the Seller Sales Damages in a Commercially Reasonable manner by using the average of market bids or quotations provided by three (3) or more bona fide unaffiliated market participants, if available. The average

of the bids/quotes that are obtained shall be deemed to be the market price. The quotes obtained shall be: (i) for a like amount, (ii) of Net Energy, Environmental Attributes and Capacity Attributes to be purchased by Buyer under this Agreement, (iii) at the same or reasonably similar Delivery Point, (iv) for the remainder of the Term, and (v) determined in any other Commercially Reasonable manner. In no event shall Seller Sales Damages include any penalties, or ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, contract rights or market positions to minimize Buyer's liability. For the purposes of this computation, Seller shall not be required to actually resell the Net Energy, Environmental Attributes and Capacity Attributes to be purchased by Buyer under this Agreement to calculate the Seller Sales Damages as set forth herein. If Seller Sales Damages are owed as a result of an Event of Default and the Seller Sales Damages, as calculated pursuant to this definition, are a negative number then the Seller Sales Damages shall be deemed to equal **Zero Dollars (\$0.00)**. Upon termination of this Agreement by Seller due to an Event of Default by Buyer, Seller shall have no future or further obligation to deliver the Net Energy of the Facility to Buyer or to satisfy any other obligation under this Agreement, except for (x) payments or other obligations arising or accruing prior to the effective date of termination, and (y) those obligations surviving the termination or expiration of this Agreement pursuant to Section 15.17.

11.6 Acceptability of Liquidated Damages. Each Party agrees and acknowledges that (i) the damages that the non-defaulting Party would incur due to an Event of Default by the defaulting Party, or other early termination provided for herein, would be difficult or impossible to predict or calculate with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Payment and other amounts payable as agreed to by the Parties and set forth herein is a fair and reasonable calculation of such damages.

11.7 Payment of Termination Payment. The Party owing a Termination Payment hereunder shall make the Termination Payment within fifteen (15) Business Days after the calculation of the Termination Payment is delivered to such Party by the Party to which the Termination Payment is owed. If the Party owing the Termination Payment disputes the other Party's calculation of the Termination Payment, in whole or in part, the Party owing the Termination Payment shall, within fifteen (15) Business Days of receipt of the other Party's calculation of the Termination Payment, provide to such other Party a detailed written explanation of the basis for such dispute; provided, however, that if Seller is the Party owing the Termination Payment it shall first transfer Performance Assurance to Buyer in an amount equal to the Termination Payment calculated by Buyer. If the Parties are unable to resolve the dispute within thirty (30) days, Article XIV shall apply.

11.8 Use and Return of Performance Assurance. In the event that the defaulting Party fails to pay the Termination Payment in full within the time period set forth in Section 11.7, the remedies of the non-defaulting Party shall include making a draw or draws upon Performance Assurance, if any, provided by the defaulting Party to satisfy the unpaid portion of the Termination Payment. Upon the payment of the Termination Payment in full and any other amount due and owing the non-defaulting Party, any undrawn Performance Assurance shall be promptly returned to the Party providing that Performance Assurance.

11.9 LIMITATION OF LIABILITY. FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE RIGHTS OF THE NON-DEFAULTING PARTY AND THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN THIS AGREEMENT, AS THE SOLE AND EXCLUSIVE FULL, AGREED-UPON AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, AND ALL OTHER DAMAGES OR REMEDIES ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, OR IF A REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY NONEXCLUSIVE, THE NON-DEFAULTING PARTY SHALL HAVE THE RIGHT TO EXERCISE ALL RIGHTS AND REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, PROVIDED, HOWEVER, THAT THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND

REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT, OR OTHERWISE EXCEPT WITH RESPECT TO ANY OF THE FOREGOING DAMAGES THAT ARE INCLUDED IN ANY CLAIM BY A THIRD PARTY FOR WHICH A PARTY IS INDEMNIFIED HEREUNDER. FOR THE AVOIDANCE OF DOUBT, THE CALCULATION OF THE AMOUNT OF LIQUIDATED DAMAGES SPECIFIED HEREIN AND A TERMINATION PAYMENT HEREUNDER, AS APPLICABLE, ARE DIRECT, ACTUAL DAMAGES.

ARTICLE XII INDEMNIFICATION

12.1 **General.** Buyer and Seller shall each be responsible for the operation, maintenance, care and repair of its own facilities.

(a) Seller shall release, indemnify, defend, and hold harmless, on an after-tax basis, Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives ("Buyer Indemnitees") against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, fines, assessments, royalties, penalties and interest, including reasonable costs and attorney's fees ("Claims") resulting from, or arising out of or in any way connected with (a) any event, circumstance, act, or incident relating to the Net Energy delivered under this Agreement up to and at the Delivery Point, (b) Seller's development, permitting, construction, ownership, operation and/or maintenance of the Facility, (c) the breach, violation or failure by Seller or failure of the Facility to comply with applicable Laws, (d) any taxes, assessments or other governmental charges for which Seller is responsible hereunder, (e) any infringement, misappropriation, or dilution of intellectual property rights or interests of a third party, or (f) any liens or encumbrances against Net Energy delivered hereunder made by, under, or through Seller, in all cases including any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or third parties, caused by the negligence of Seller excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

(b) To the fullest extent permitted under Florida law, subject to and without waiving its rights immunities, exemptions, limitations of liability, affirmative defenses and defenses arising under or relating to sovereign immunity under the Laws of the State of Florida, Buyer shall respond to third party Claims resulting from, or arising out of or in any way connected with (a) any event, circumstance, act, or incident relating to the Net Energy received by Buyer under this Agreement after the Delivery Point, (b) the failure by Buyer in performance of its obligations and covenants to comply with applicable Laws, or (c) any governmental charges for which Buyer is responsible hereunder, in all cases including any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller or third parties caused by the gross negligence of Buyer, excepting such Claims to the extent caused by, resulting from or related to the breach, willful misconduct or negligence of Seller, its Affiliates, its contractors and its and their directors, officers, employees, agents, and representatives.

12.2 **Claims Resolution.** Buyer shall notify Seller of any claim or proceeding in respect of which it is to be indemnified. Failure to give such notice promptly shall not excuse an indemnification obligation except to the extent failure to promptly provide notice adversely affects the Seller's interests in a material respect. Seller shall assume the defense of the Claims with counsel designated by the Seller; provided, however, that if the defendants in any such action include both Seller and Buyer reasonably concludes that there may be legal defenses available to it that are different from or additional to, or inconsistent with, those available to the Seller, Buyer shall have the right to select and be represented by separate counsel, at the expense of Seller. If Seller fails to timely and effectively assume the defense of a claim, the indemnification of which is required under this Agreement, Buyer may, at the expense of Seller, contest, settle, or pay such claim; provided, however, that settlement or full payment of any such claim may

be made only with the Seller's consent (which shall not be unreasonably withheld or delayed), or absent such consent, written opinion of the Seller's counsel that such claim is meritorious or warrants settlement. Buyer may draw upon any Performance Assurance to satisfy the unpaid portion of any indemnity claim against Seller. Article XII shall survive termination of this Agreement, as provided in Section 15.17.

ARTICLE XIII REPRESENTATIONS, WARRANTIES, COVENANTS

13.1 **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that, as of the Effective Date:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation;

(b) it has the power to execute and deliver this Agreement and to perform its obligations under this Agreement and has taken all necessary corporate, company, partnership, governmental and/or other actions, as applicable, to authorize such execution and delivery and performance of such obligations;

(c) its execution and delivery of this Agreement and its performance of its obligations under this Agreement do not violate or conflict with any Law applicable to it; with any provision of its charter or bylaws (or comparable constituent documents); with any order or judgment of any court or other Governmental Authority applicable to it or any of its assets; or with any contractual restriction binding on or affecting it or any of its assets;

(d) there are no actions, suits, proceedings or investigations pending or, to the knowledge of the Party, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction that individually or in the aggregate could result in any materially adverse effect on the Party's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Agreement;

(e) except as provided in Sections 15.17 and 15.18, all authorizations of and exemptions, actions or approvals by, and all notices to or filings with, any Governmental Authority that are required to have been obtained or made by it at the time this representation is made with respect to this Agreement have been obtained or made and are in full force and effect, and all conditions of any such authorizations, exemptions, actions or approvals have been complied with;

(f) the Party has knowledge of all Laws that must be followed in performing its obligations under this Agreement and the Party is in compliance with all such Laws except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the other Party;

(g) this Agreement constitutes the Party's legal, valid and binding obligation, enforceable against it in accordance with its terms;

(h) the Party covenants that, with the exception of (d) above, it will cause these representations and warranties to be true and correct throughout the Term of this Agreement; and

(i) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether or not this Agreement is appropriate, beneficial or proper for it based upon its own judgment, and other than representations expressly set forth herein, is not relying upon the representations, advice or recommendations of the other Party in so doing, is capable of assessing the merits of this Agreement, and understands and accepts the terms, conditions, and risks of this Agreement for fair consideration on an arm's length basis.

13.2 **Seller's Representations and Warranties.**

(a) Seller represents and warrants to the Buyer that, as of the Effective Date, the Seller knows of no (i) existing violations of any environmental laws at the Site or Facility, including those governing Hazardous Substances or (ii) pending, ongoing, or unresolved administrative or enforcement investigations,

compliance orders, claims, demands, actions, or other litigation brought by a Governmental Authority or other third parties alleging violations of any environmental Law or Permit that could materially and adversely affect the occupancy and use of the Site or any part thereof for the construction and operation of the Facility or the operation of the Facility as contemplated by this Agreement.

(b) Except as expressly provided in Section 15.1(b) with respect to financing of the Facility, and with respect to Buyer's option to purchase the Facility assets, right of first offer and right of first refusal rights and related interests hereunder, Seller represents and warrants that the Site and Facility are and will remain throughout the Term of this Agreement free and clear of all liens, claims, encumbrances and third party rights of any kind other than liens for taxes which are not yet due and payable and otherwise expressly permitted hereunder. For the avoidance of doubt, liens, encumbrances, conveyances, and other transfers to Financing Parties in connection with Financing Transactions are permitted.

(c) Seller will not claim to for itself or any Affiliate any of the Environmental Attributes, "green energy", "clean energy", "carbon-free energy" or other rights sold to Buyer, in any public communication concerning the output of the Facility, the Facility or the RECs.

(d) Seller shall at all times comply with the requirements of, and qualify as, a special purpose entity.

13.3 **No implied Warranties.** Except as expressly set forth in this Agreement, neither Party makes any representations or warranties, express or implied, concerning the subject matter of this Agreement. Each Party expressly disclaims any implied warranties of merchantability or suitability or fitness for a particular purpose.

ARTICLE XIV DISPUTE RESOLUTION

14.1 **General.** It is the intent of the Parties that all breaches of this Agreement or disputes arising out of this Agreement that are technical in nature shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 14.4, and all other breaches or disputes arising out of this Agreement shall be resolved in accordance with the dispute resolution procedure set forth in Sections 14.2 and 14.3.

14.2 **Informal Resolution.** If any breach or dispute arises between the Parties, then either Party may commence the dispute resolution procedure by providing written notice thereof to the other Party. The notice shall include a detailed description of the subject matter of the dispute and the proposed resolution of the dispute. Each Party by notice to the other Party shall promptly designate a senior executive who shall have authority to resolve the dispute through negotiations. The senior executives shall obtain such information as may be necessary to inform themselves of the substance and particulars of the dispute, provided that no document discovery or depositions shall be required during negotiation, and any document exchange shall be voluntary. The negotiation and exchange of documents in connection with the negotiation shall be confidential and considered statements made in compromise negotiations within the meaning of the Federal Rule of Evidence 408 and any applicable state law, evidentiary rules or doctrines. The senior executives shall meet within twenty (20) Business Days of the initial notice of the dispute, at a time and place mutually acceptable to the senior executives. Notwithstanding the referral of the dispute to senior manager, either Party may seek an order granting injunctive relief, including specific performance, from a court of competent jurisdiction located in Alachua County, Florida in order to preserve the status quo during the pendency of the dispute resolution process.

14.3 **Litigation.** If the senior executives are unable to resolve the dispute within twenty (20) Business Days after their first meeting or such later date as the senior executives may mutually agree in writing, then either Party may refer the dispute to litigation. This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the resolution of the dispute. The sole and exclusive venue for resolution for any claim, demand, dispute or controversy arising out of or concerning

the transactions contemplated by this Agreement or the subject matter hereof shall be the state and federal courts in Alachua County, Florida.

14.4 **Technical Dispute Resolution Procedures.**

(a) Application. If (i) there is a Technical Dispute, or (ii) the Parties fail to come to an agreement with respect to the Operating Procedures or other technical matters within the timeframe specified in this Agreement, then the provisions of this Section 14.4 shall apply. Either Party may provide the other Party a written notice of the dispute specifying the matter to be determined.

(b) Resolution by Mutually-Selected Consulting Engineer. Within fifteen (15) Business Days of delivery of a notice of a Technical Dispute, the Parties shall select an independent technical expert, who shall be a mutually acceptable third party with training and experience in the disciplines relevant to the matters with respect to which such person is called upon to provide a certification, evaluation or opinion (a "Consulting Engineer"). Within thirty (30) days of the engagement of the Consulting Engineer for a Technical Dispute (or such longer period of time as the Parties may mutually agree in writing), the Parties shall provide the Consulting Engineer written submissions and other evidence to assist the Consulting Engineer in its determination of the dispute. The Consulting Engineer shall render a written decision on the Technical Dispute as soon as practicable after the close of the thirty (30) day period, and no later than within fifteen (15) days. The Consulting Engineer shall have no authority to award damages or remedies excluded by this Agreement. The fees and costs of the Consulting Engineer shall be paid by the Parties, each Party being responsible to pay the Consulting Engineer fifty percent (50%) of such fees and costs.

(c) Resolution by Third-Party Consulting Engineer. In the event the Parties are unable to mutually agree upon a single Consulting Engineer within fifteen (15) Business Days of delivery of a notice of a Technical Dispute, then each Party shall select a Consulting Engineer within twenty (20) Business Days of delivery of the notice of the Technical Dispute. The two Consulting Engineers shall then select a third Consulting Engineer (the "Ultimate CE") by mutual agreement within five (5) Business Days. Within thirty (30) days of the engagement of the Ultimate CE for a Technical Dispute (or such longer period of time as the Parties may mutually agree in writing), each Party, together with such Party's selected Consulting Engineer, shall provide the Ultimate CE with a proposed determination, supported by written submissions and other evidence to assist the Ultimate CE in its determination of the dispute. The proposed determinations may not include any damages or remedies excluded by this Agreement. The Ultimate CE shall select one of the two proposed determinations as soon as practicable after the close of the thirty (30) day period, and no later than within fifteen (15) days. The proposed determination selected by the Ultimate CE shall be binding upon the Parties as the final resolution of the Technical Dispute. Each Party shall pay the fees and costs of the Consulting Engineer retained by it. The fees and costs of the Ultimate CE shall be paid by the Parties, each Party being responsible for payment of fifty percent (50%) of such fees and costs.

ARTICLE XV MISCELLANEOUS

15.1 Assignment.

(a) Restriction. Except as provided below, neither this Agreement (or any right, duty or obligation hereunder) nor the Facility or the Site may be assigned, transferred, delegated or conveyed directly or indirectly, in whole or in part by either Party without the prior written consent of the other Party.

(b) Collateral Assignment. Notwithstanding anything else herein to the contrary, Seller may mortgage, pledge, encumber, or assign the Facility (subject to the terms of Section 15.1(e)), this Agreement or the revenues under this Agreement to any Financing Party as security for the financing of the construction of the Facility. Seller shall provide prior written notice to Buyer of such mortgage, pledge, encumbrance or assignment. To support Seller's efforts to obtain financing to construct and operate the Facility, Buyer agrees to provide a limited consent to such pledge or assignment as may be reasonably requested by Seller or any Financing Party in connection with the financing of the Facility; provided that in responding to any

such request, Buyer shall have no obligation to (i) provide any writing or statement other than, or in addition to, a simple consent, (ii) provide any consent that in such circumstance affects, or could be expected to have or result in a material effect on any of Buyer's rights, remedies, interests, benefits, risks and/or obligations under this Agreement which is adverse to Buyer, or (iii) incur any unreimbursed costs, expenses or fees, including attorney's and advisor's fees. Seller shall reimburse, or shall cause the Financing Parties to reimburse, Buyer for any and all such direct third party costs, expenses or fees incurred by Buyer in the preparation, review, evaluation, negotiation, execution and/or delivery of any consent or other documents requested by Seller or the Financing Parties, and provided by Buyer, pursuant to this Section 15.1(b).

(c) Foreclosure. In the event of any foreclosure, whether judicial or nonjudicial, or any deed in lieu of foreclosure, in connection with any mortgage, deed of trust, or other similar lien, such Financing Party shall be bound by the covenants and agreements of Seller in this Agreement and the option and right of first refusal/offer granted to Buyer by Seller; provided, however, that until the Person who acquires title to the Facility executes and delivers to Buyer a written assumption of Seller's obligations under this Agreement in form and substance acceptable to Buyer, such Person shall not be entitled to any of the benefits of this Agreement. Any sale or transfer of all or any portion of the Facility by Financing Party shall be made only to an entity that is approved by Buyer.

(d) Change in Control. Buyer's prior written consent shall be required for any change in control of Seller, whether direct or indirect, that is not a Permitted Transfer.

(e) Assumption. Notwithstanding anything else herein to the contrary, Seller shall not, by way of mortgage, security interest, charge or otherwise, encumber any interest it has in the Facility in a manner that would permit the secured party to take possession of the Facility unless the secured party (for itself, its successors and assigns) consents in a form substantially similar to the Form of Consent in Attachment M or otherwise agrees in a writing reasonably acceptable to Buyer to assume Seller's obligations under this Agreement in the event that such secured party takes possession of the Facility through the exercise of its rights under a mortgage, security interest or other encumbrance on the Facility is executed upon, enforced or foreclosed upon and the secured party cures any breach or Event of Default by Buyer capable of cure by performance or the payment of money damages.

(f) Null and Void Assignments. Any purported sale, lease, conveyance, assignment, delegation, pledge, or transfer of this Agreement or all or any part of the Facility not in compliance with the provisions of this Section 15.1 shall be null and void without act or notice by the other Party and an Event of Default.

(g) Assignment by Seller. Except as set forth herein with respect to pledging assets and properties as collateral security or as otherwise expressly permitted in connection with a Financing Transaction and subject to Buyer's option right, right of first refusal and right of first offer, Seller shall not assign all or any portion of this Agreement, without Buyer's prior written consent. Seller shall give Buyer not less than thirty (30) days prior written notice of any requested assignment. Subject to Seller providing Buyer with information demonstrating to Buyer, in Buyer's sole Commercially Reasonable discretion, that Seller's proposed assignee has the technical, engineering, financial, and operational capabilities, expense and expertise to perform the obligations, covenants and duties of Seller under this Agreement, Buyer may not unreasonably withhold its consent if such assignee shall agree in writing to be bound by the terms and conditions hereof and shall deliver to Buyer Performance Assurance in the amount required under this Agreement, and such enforceability assurance as the Buyer may request in its sole Commercially Reasonable discretion. Notwithstanding anything to the contrary herein, Buyer may pledge revenues received by it under this Agreement without the consent of Seller to any Person in connection with the issuance of bonds or other obligation by Buyer.

15.2 Notices. Wherever this Agreement requires or permits delivery of a notice (or requires a Party to give notice), the Party with such right or obligation shall provide a written communication by personal delivery, overnight U.S. mail, national courier or delivery service or email and to the addresses set

forth below; provided, however, that notices of outages or other scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section(s) of this Agreement or procedure developed by the Parties. Invoices may be sent by email. A notice sent by email will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide notice to the other Party of the persons authorized to nominate and/or agree to a schedule or dispatch order for the delivery or acceptance of Net Energy or make other notices on behalf of such Party and specify the scope of their individual authority and responsibilities. A Party may change its designation of such persons from time to time in its sole discretion by providing notice to the other Party.

If to Seller:

FL Solar 6, LLC
800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attention: President

with a copy to:

FL Solar 6, LLC
800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attention: General Counsel

If to Buyer:

Gainesville Regional Utilities
301 S.E. 5th Avenue
Gainesville, Florida 32601
Attention: General Manager

With a copy to:
Gainesville Regional Utilities
301 S.E. 5th Avenue
Gainesville, Florida 32601
Attention: City Attorney

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand, or the next Business Day after deposit by the sending Party if delivered by nationally recognized overnight courier.

15.3 **No Third-Party Beneficiary.** Except Buyer Indemnitees and a Financing Party which is a party to a consent to assignment of this Agreement executed among the Parties and such Financing Party, this Agreement is intended solely for the benefit of the Parties, and nothing contained herein shall be construed to create any duty to, or standard of care with reference to cause or right of action, or any liability to, or any benefit for, any other Person not a Party to this Agreement.

15.4 **No Dedication.** No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's plant, facilities or system or any portion thereof to

the other Party or to the public or affect the status of Buyer as a body public and corporate or Seller as an independent entity and not a public utility.

15.5 **Integration; Amendment.** The Agreement, together with all Attachments, constitutes the entire agreement between the Parties relating to the transaction described herein and supersedes any and all prior oral or written understandings. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived enforcement or benefit of any provision or any right or remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall be one and the same instrument.

15.6 **Governing Law** This Agreement is made in the State of Florida and shall be interpreted and governed by the laws of the State of Florida and/or the laws of the United States, as applicable, without reference to conflict of laws provisions.

15.7 **Relationship of Parties.**

(a) **Several Obligations.** The duties, obligations, and liabilities of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Seller and Buyer or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. Seller and Buyer shall not have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

(b) **Independent Contractor.** The relationship between Buyer and Seller shall be that of contracting party to independent contractor. Accordingly, subject to the specific terms of this Agreement, Buyer shall have no general right to prescribe the means, methods and techniques by which Seller shall meet its obligations under this Agreement.

(c) **Employment.** Seller shall be solely liable for the payment of all wages, benefits, withholdings, taxes, assessments, fees and other costs related to the employment of natural persons to perform work, services or activities to Seller's obligations under this Agreement, including all federal, state, and local income, social security, payroll, and employment taxes, and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of Buyer for any purpose. Seller shall not represent to any person that he or she is or shall become a Buyer employee, representative or agent.

15.8 **Good Faith and Fair Dealing; Further Assurances.**

(a) The Parties agree to act in accordance with the principles of good faith and fair dealing in the performance of this Agreement. The Parties agree to reasonably cooperate with each other in the implementation and performance of this Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement.

(b) Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. No Party shall be required to take any action or execute any document under this Section 15.8(b) that would adversely change or affect that Party's risk or benefit under this Agreement.

(c) The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, technology, equipment, facilities, systems or methods of either Party will materially benefit a Party without cost or detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to

cooperate and assist each other in making such change on terms and conditions mutually agreed by the Parties.

15.9 **Severability.** If any provision of this Agreement is or becomes void, illegal, or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and such other provisions shall continue in full force and effect. The Parties will, however, use reasonable efforts to agree on the replacement of the void, illegal, or unenforceable provision(s) with a clause or clauses which are legally acceptable and correspond as closely as possible to the purpose of the affected provision and this Agreement as a whole.

15.10 **Forward Contract.** The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Seller and Buyer are "forward contract merchants" within the meaning of the United States Bankruptcy Code.

15.11 **Assent Not Waiver of Future Breach.** No assent, express or implied, by either Party to any breach, default, failure, non-performance or non-compliance with the terms of this Agreement by the other Party shall be effective and binding unless made in writing by the Party to be bound thereby, and no assents shall be deemed to be a waiver of any subsequent breach, default, failure, non-performance or non-compliance.

15.12 **Damage to Facility. Condemnation.**

(a) In the event that the Facility is destroyed or substantially damaged by fire, ice, lightning, wind, flood, explosion, aircraft or other vehicular damage, collapse, or other casualty not less than five (5) years before the end of the Initial Term, Seller shall use Commercially Reasonable Efforts to repair or reconstruct the Facility as soon as reasonably possible. Notwithstanding the forgoing, if at the time of the damage (i) there are requirements of Financing Parties that prevent reconstruction; or (ii) Seller, after consultation with an independent engineer, reasonably determines that the proceeds available from applicable insurance policies or damages payable by third parties who have caused any such damage or destruction or are otherwise liable for the damage are insufficient to fund repair or reconstruct the Facility, then there shall be no obligation for Seller to rebuild the Facility, provided that Seller provides notice of such circumstance to Buyer within sixty (60) days of the damage or destruction. Otherwise Seller shall commence such repair or reconstruction and maintain progress in the work to re-commence full Commercial Operation of the Facility within ten (10) months from the date Seller first receives insurance proceeds or payment from the responsible party for such damage or destruction. If Seller fails to timely re-commence Commercial Operation of the Facility and such failure is not due to Force Majeure or Buyer's sole fault, such failure shall be an Event of Default by Seller and Buyer may terminate this Agreement by giving thirty (30) days' written notice to Seller. In the event of a termination pursuant to this Section 15.12(a) other than a termination by Buyer for a Seller Event of Default, neither Party shall have any further obligation to the other Party under this Agreement except such obligations which have already accrued at termination, and those obligations surviving the termination or expiration of this Agreement as described in Section 15.17. If Seller does not repair or reconstruct the Facility, whether due to the requirements of Financing Parties, a reasonable determination about the sufficiency of proceeds available from applicable policies of insurance or damages payable by third parties or otherwise, and it is not otherwise contrary to the rights of Financing Parties, Buyer shall have the option to purchase the Facility "as-is" for a purchase price equal to the Fair Market Value of the Facility in accordance with the procedure set forth in Section 3.11, such option being exercisable at any time during the period six (6) months after Seller provides notice that it will not rebuild the Facility. Buyer's option to purchase the Facility under this Section 15.12(a) shall be in addition to the option to purchase which is the subject of Section 3.11(a).

(b) For the Term, Seller shall immediately notify Buyer of the institution of any proceeding for the condemnation or other taking of the Facility or the Site or any portion thereof. Buyer may fully participate in any such proceedings and Seller will deliver to Buyer all instruments within its possession or

reasonable control that are necessary or required by Buyer to permit or support such participation. To the extent Buyer participates in any such proceeding in respect of any interests of Buyer and receives any award independent from that granted to Seller, Buyer may retain the full amount of such award.

15.13 Trade Secrets; Public Records.

(a) Applicable Law. Florida's Public Records Law, Chapter 119, Florida Statutes, includes numerous exemptions to the general requirement to disclose information to the public in response to a public record's request. Exemptions are found in various provisions of the Florida Statutes, including but not limited to Section 119.071, Florida Statutes (General exemptions from inspection or copying of public records), and Section 119.0713, Florida Statutes (Local government agency exemptions from inspection or copying of public records). Section 815.045, Florida Statutes (Trade secret information), provides that trade secret information as defined in Section 812.081, Florida Statutes (Trade secrets; theft, embezzlement; unlawful copying; definitions; penalty) is confidential and exempt from disclosure because it is a felony to disclose such records. The Parties understand and agree that Florida's Public Records Law is very broad and that documents claimed by a Party to be confidential and exempt from public disclosure pursuant to the Public Records Law may in fact not be deemed such by a court of law. Accordingly, the following provisions shall apply.

(b) Exempt Records. For any records or portions thereof that Seller claims to be trade secret information or otherwise confidential and exempt from public disclosure under the Public Records Law, Seller shall:

(i) Specifically identify the records or specific portions thereof that are confidential and exempt and reference the particular Florida Statute that grants such status.

(ii) Provide one redacted copy of the record and one copy of the record with the confidential and exempt information highlighted. Seller shall take care to redact only the confidential and exempt information within a record.

(iii) Provide an affidavit or similar type of evidence that describes and supports the basis for Seller's claim that the information is confidential and exempt from public disclosure.

(c) Request for Trade Secret Information or Otherwise Confidential and Exempt Information.

(i) In the event GRU receives a public records request for a record with information labeled by Seller as Trade Secret or otherwise as confidential and exempt, GRU will provide the public record requester with the redacted copy of the record and will notify Seller of the public records request.

(ii) However and notwithstanding the above, in the event that GRU in its sole discretion finds no basis for Seller's claim that certain information is trade secret information or otherwise confidential and exempt under Florida's Public Records Law, then GRU shall notify Seller in writing of such conclusion and provide Seller a reasonable amount of time to file for declaratory action requesting a court of law to deem the requested information as trade secret information or otherwise as confidential and exempt under Florida's Public Records Law. If Seller fails to file for declaratory action within the reasonable amount of time provided, then GRU will disclose the information requested.

(iii) If a public records lawsuit is filed against GRU requesting public disclosure of the information labeled by Seller as trade secret information or otherwise as confidential and exempt, GRU shall notify Seller and Seller shall intervene in the lawsuit to defend the nondisclosure of such information under Florida's Public Records Law.

(iv) Seller hereby indemnifies and holds GRU, its officers and employees harmless from any and all liabilities, damages, losses, and costs of any kind and nature, including but not limited to attorney's fees, that arise from or are in any way connected with Seller's claim that any information it provided to GRU is Trade Secret or otherwise confidential and exempt from public disclosure under Florida's Public Records Law.

(d) Public Records. If Seller is either a "Contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, Seller shall:

(i) Keep and maintain public records, as defined in Section 119.011(12) of the Florida Statutes, required by GRU to perform the service.

(ii) Upon request from GRU's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Seller does not transfer the records to GRU.

(iv) Upon completion of the contract, transfer, at no cost, to GRU all public records in possession of the Seller or keep and maintain public records required by GRU to perform the service. If the Seller transfers all public records to GRU upon completion of the contract, the Seller shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Seller keeps and maintains public records upon completion of the contract, the Seller shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to GRU, upon request from GRU's custodian of public records, in a format that is compatible with the information technology systems of GRU.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE GRU CUSTODIAN OF PUBLIC RECORDS AT (352) 393-1240, PURCHASING@GRU.COM, OR 301 SE 4TH AVENUE, GAINESVILLE FL 32601.

15.14 Appropriation; Availability of Funds.

(a) The Parties agree that funding for any payment obligations of Buyer to Seller under this Agreement is limited to funding from GRU's electric utility system. Buyer agrees to take all necessary actions within its electric utility system to provide sufficient funds to satisfy Buyer's payment obligations under this Agreement. If Buyer's revenues from the sale of electricity to customers are not available or are insufficient for Buyer to make payment of such amounts due and owing Seller under this Agreement (such event, a "Funding Default"), Buyer shall promptly notify Seller and Seller may immediately suspend its performance under this Agreement until funds become available or sufficient. If Buyer is unable to resolve a Funding Default within thirty (30) days, then Buyer may terminate this Agreement without cause upon written notice to Seller and payment of a Termination Fee.

(b) The obligations of Buyer under this Agreement are payable only from the revenues of GRU's electric utility system. Nothing in this Agreement shall constitute or be deemed to constitute a pledge by GRU of the full faith and credit of the City of Gainesville, nor does the City of Gainesville pledge any ad valorem taxes or other moneys other than revenues from the electric utility system. Seller acknowledges and agrees that it shall not have any right to require or compel the exercise of the ad valorem taxing power of the Gainesville City Commission.

15.15 Goodwill and Publicity. Except as otherwise provided herein, neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional, marketing or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making prepared public announcements related to the execution and existence of this Agreement, the acquisition of the Site, and design, permitting, construction and operation of the Facility,

and each Party shall have the right to promptly review and comment upon, and approve (which shall not be unreasonably denied or delayed) any publicity materials by the other Party that refer to, or that describe any aspect of, this Agreement or the Facility. Without limiting the generality of the foregoing, all prepared public statements must accurately reflect the rights and obligations of the Parties under this Agreement.

15.16 **Community Outreach.** Seller shall cooperate with Buyer to support Buyer community engagement and marketing efforts related to the Facility. With Buyer's cooperation, Seller will formulate and implement a community outreach plan based on the elements outlined in Attachment O to inform the neighboring community, allay concerns, and implement, as Commercially Reasonable and practicable, requests from the community to garner support for the Facility from the neighboring community. Notwithstanding anything to the contrary herein, Attachment O may be revised by mutual agreement of the Parties without requiring an amendment to this Agreement.

15.17 **Survival.** The termination of this Agreement shall not release or discharge any Party from any obligation or liability it owes to the other Party hereunder by reason of any transaction, cost, loss, damage, expense or liability which shall occur or arise (or the circumstances, events or basis which shall occur or arise) prior to or as a consequence of such termination. It is the intent of the Parties hereby that any obligation owed (whether the same shall be known or unknown at the termination of this Agreement or whether the circumstances, events or basis of the same shall be known or unknown at the termination of this Agreement), including an indemnification obligation arising under Section 12.1 from circumstances occurring prior to termination but not known at termination, will survive the termination of this Agreement. In addition, the provisions within Articles XI, XII, XIV, and XV (and any provisions or definitions referenced therein necessary to the administration of such Articles) shall survive the termination of this Agreement. In addition, for twenty-four (24) months after the expiration or termination of this Agreement, all audit rights of Buyer under this Agreement shall survive such termination and expiration of this Agreement. Seller shall retain any and all documents (including paper, written, and electronic) and/or any other records relating to this Agreement and the Facility for a period of twenty-four (24) months after the termination or expiration of this Agreement.

15.18 **Limitation of Duty to Buy.** If this Agreement is terminated due to a default by Seller, neither Seller nor any Affiliate and/or successor of Seller, nor any Affiliate and/or successor of Seller to the Facility, including management, ownership, lease and/or operation of the Facility, will demand, require or seek to require Buyer to purchase any product, service, or output (Net Energy, Environmental Attributes, Capacity Attributes or otherwise) provided by or in connection with operation of the Facility under any Law. Seller, on behalf of itself and on behalf of any other Person on whose behalf it may act, and on behalf of any successor to Seller or successor to the Facility, hereby acknowledges that the foregoing is an inducement for Buyer to enter into this Agreement and agrees to the terms and conditions in the above sentences, and hereby waives any right it may have to revoke, rescind, reform, challenge or dispute the above sentence.

15.19 **Change in Law.**

(a) **Regulatory Event.** A "Regulatory Event" means one or more of the following events:

(i) **Illegality.** After the Effective Date, due to the adoption of, or change in, any applicable Law or in the interpretation thereof by any Governmental Authority with competent jurisdiction, it becomes unlawful for a Party to perform any material obligation under this Agreement.

(ii) **Adverse Government Action.** After the Effective Date, there occurs any adverse material change in any applicable Law (including material change regarding a Party's obligation under such Law to produce, store, sell, deliver, purchase, or receive the Net Energy, Environmental Attributes or Capacity Attributes) and any such occurrence renders illegal or unenforceable any material obligation or performance requirement under this Agreement.

(b) **Process.** Upon the occurrence of a Regulatory Event the Party affected by the Regulatory Event may notify the other Party in writing of the occurrence of a Regulatory Event, together with details and explanation supporting the occurrence of a Regulatory Event. Upon receipt of such notice, the Parties agree to undertake, during the thirty (30) days immediately following receipt of the notice, to negotiate such modifications to reform this Agreement to remedy the Regulatory Event and attempt to give effect to the original intention of the Parties. Upon the expiration of the 30-day period, if the Parties are unable to agree upon modifications to this Agreement that are acceptable to each Party, in each Party's sole discretion, then either Party will have the right, in such Party's sole discretion, to terminate this Agreement with a 30-day advance written notice to the other Party.

15.20 **Mobile-Sierra.** All sales of the Net Energy by Seller to Buyer shall be wholesale sales made pursuant to and in accordance with applicable Laws, including FERC rules and regulations. Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of this Agreement proposed by a Party, a non-party or the FERC acting sua sponte shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008).

15.21 **Service Contract.** The Parties acknowledge and agree that this Agreement purports to be a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code, the Parties hereto intend it to be such, and this Agreement should be construed accordingly.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

Seller:

FL Solar 6, LLC,
a Delaware limited liability company

By: 

Name: Johan Vanhee

Title: Chief Commercial Officer & Chief Procurement Officer

Buyer:

Gainesville Regional Utilities,
an enterprise of the City of Gainesville, Florida

By: 

Name: Edward J. Bielarski

Title: General Manager

Approved as to form and legality:



Lisa C. Bennett
Senior Assistant City Attorney

ATTACHMENTS

The following Attachments and others that may be agreed upon by the Parties hereunder are hereby incorporated by reference and made part of this Agreement.

" <u>Attachment A-1</u> "	Description of Facility
" <u>Attachment A-2</u> "	Description of Site
" <u>Attachment A-3</u> "	Description of Delivery Point and One-Line Diagram
" <u>Attachment B</u> "	Schedule of Rates
" <u>Attachment C</u> "	Net Energy Delivery Requirements – Contract Quantity
" <u>Attachment D</u> "	Insurance Requirements
" <u>Attachment E</u> "	Form of Parent Guaranty
" <u>Attachment F-1</u> "	Form of Letter of Credit
" <u>Attachment F-2</u> "	Form of Surety Bond
" <u>Attachment G</u> "	Form of Status Report
" <u>Attachment H</u> "	Form of Environmental Attributes Bill of Sale
" <u>Attachment I</u> "	Indicative Value of Facility - Option Price
" <u>Attachment J</u> "	Example Calculation - Ramp Rate Allotment (Illustration Only)
" <u>Attachment K-1</u> "	Example calculation - Ramp Rate Exceedance Deposit (Illustration Only)
" <u>Attachment K-2</u> "	Example Calculation - Curtailment Impact on Contract Quantity and Guaranteed Energy Production (Illustration Only)
" <u>Attachment L</u> "	Technical Parameters and Operating Procedures
" <u>Attachment M</u> "	Form of Lender Consent
" <u>Attachment N</u> "	Milestone Schedule, Required Milestones
" <u>Attachment O</u> "	Community Outreach Activities

ATTACHMENT A-1

Description of Facility

The Facility is a 50 MW_{AC} PV solar facility combined with a 12 MW / 24 MWh battery energy storage system, consisting of the following equipment, subject to final engineering and procurement of the Facility equipment:

1. Solar Panels

- poly-crystalline, mono-crystalline, bifacial or thin film PV technology
- 350-600 Watt range
- Tier-1 manufacturer, JA Solar, Trina Solar, First Solar or other well-known, proven brand
- UL-certified

2. Inverters

- 2000-3000 KVA central inverters, bidirectional
- Tier-1 manufacturer: SMA, PowerElectronics, TMEIC, Sungrow or other well-known, proven brand
- UL-certified

3. Single Axis Trackers

- Single row, 20-80 panel racks
- Distributed or central drive and control
- Backtracking with max range -45 ° to +45 °C (or more)
- Tier-1 manufacturer : Array Tech, NexTracker, GameChange or other well-known, proven brand
- Inter-row pitch: 4.9-6.3 m (<#> ft)

4. Transformers

- 34.5 kV / inverter output voltage MV stepup transformers
- 138 kV / 34.5 kV engineered final step up transformers
- Tier-1 manufacturer: CG Electric, Siemens, S&C, ABB, GE or other well-known, proven brand

5. Electrical Balance of Systems

- 1000-1500 V_{DC} combiner boxes, 12-36 strings
- Double harnessed DC wiring
- Tier-1 manufacturer: Shoals, Siemens, WTEC or other well-known, proven brand

6. Battery Energy Storage System

- Lithium-Ion battery cells
- LFP or NMC chemical composition
- Modules, and Racks
- Tier 1 manufacturer: Samsung, LG Chem, CATL, BYD, SKI, Lishen or other well-known, proven brand

7. Plant Controller, SCADA and Monitoring systems

- Monitoring of all main electrical components (revenue meters, breaker, transformers, inverters, string boxes)
- Plant controller and Energy Storage Management System
- Tier 1 manufacturer: ABB, Siemens, AlsoEnergy or other well-known, proven brand

ATTACHMENT A-2

Description of Site

TOWNSHIP 11 SOUTH - RANGE 19 EAST SECTION

- 18 All
- 19 West ½ of NW ¼, less 5 acres to Church

TOWNSHIP 11 SOUTH - RANGE 18 EAST SECTION

- 22 In Grant. Lots 17 and 32, less right of way of State Road #S-346; ALSO South ½ of Section in the Grant.

Out of Grant. Lot 1; East 500 feet of Lot 2; Lot 7, less right of way of railroad; Lot 6, less right of way of railroad.
- 23 NW ¼ of SW ¼, less the North 420 feet of the East 210 feet thereof; S ½ of SW ¼; SW ¼ of NW ¼; S ½ of NW ¼ of NW ¼; less right of way of State Road #S-346.
- 24 All, less right of way of State Road #S-346.
- 25 All, less Lot 26, Block 1; Lot 21, Block 3; Lots 13 and 14, Block 4; Lots 2, 6, 7 and 8, Block 5; Lots 1, 2, 3, 11, 12 and 13, Block 7, Lot 8, Block 9; Lots 6 and 19, Block 10; Lots 1, 2, 9, 10, 11, 12, 14, 23 and 24, Block 15; Lot 5, Block 16; Lots 14, 15, 16, 17 and 18, Block 17; Lots 10, 11, 12, 13, 14 and 15, Block 18; Lots 16, 17, 19 and 20, Block 21; Lots 9, 10, 11 and 12, Block 22; Lots 17 and 18, Block 25; Lots 9, 10, 11, 12 and 17, Block 28; Lots and 9, Block 29; Lots 22, 23 and 24, Block 35, all in Archer Heights as per plat in Plat Book C, Page 3, Public Records of Alachua County, Florida; and ALSO less right of way of State Road #S-346.
- 26 All
- 27 In Grant. All North of Railroad.
- 27 Not in Grant. Government Lot 10.
- 32 N ½ of NW ¼.
- 35 East 27 chains, less the South 20 chains.
- 36 All, less the SW ¼ of SW ¼.

ATTACHMENT A-3

Description of Delivery Point and One-Line Diagram

Description of Delivery Point: The Delivery Point will be the high side bushings of the main step-up transformer in the Seller Interconnection Facilities in the GRU Parker Road Substation.

One-Line Diagram [Not for Construction]: *(see following page)*

NOTES:

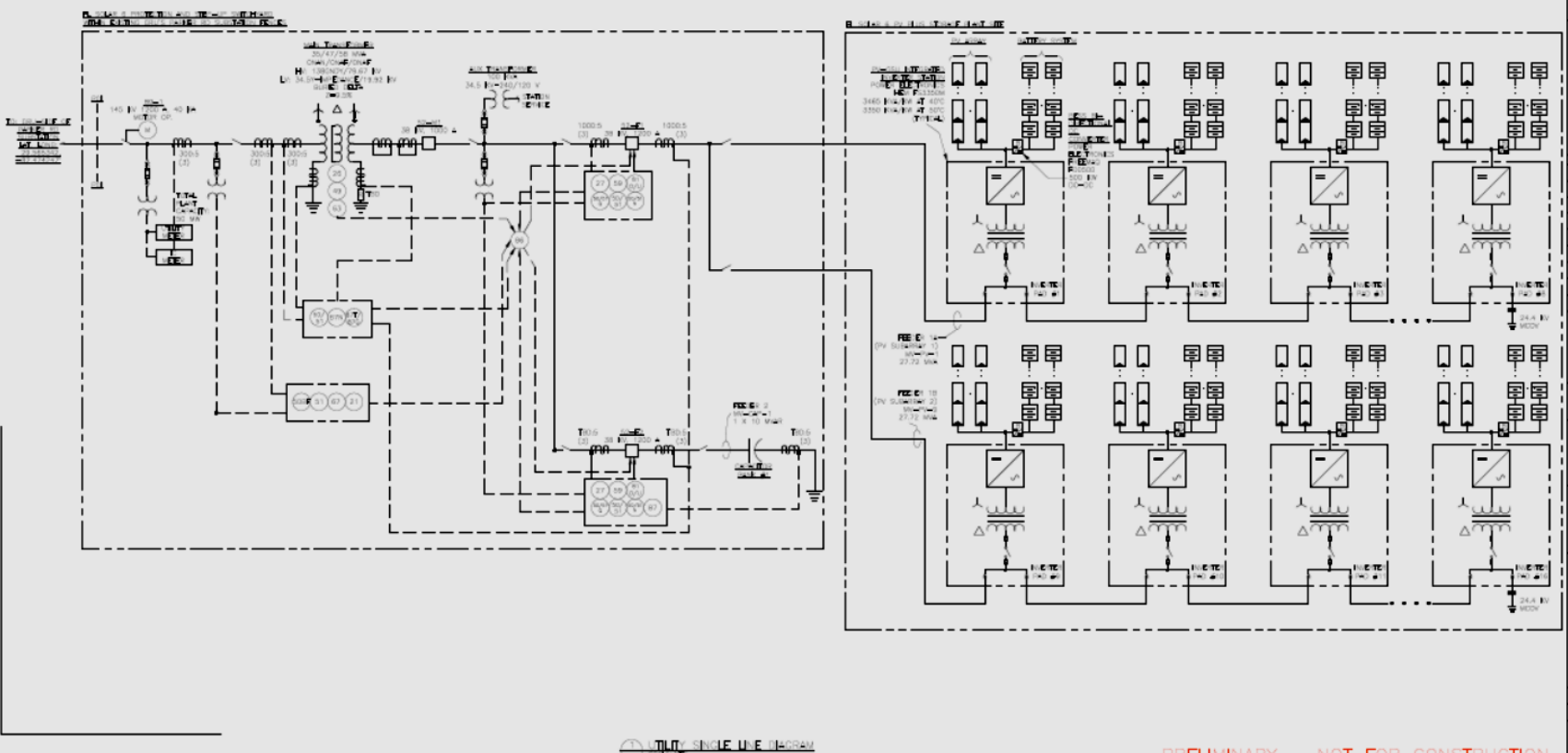
- SYSTEM SPECIFICATIONS:
 PV PANEL (DC COUPLED) SYSTEM CAPACITY:
 21.175 MW AC
 (1) POWER ELECTRONICS PER PHASOR INTEGRATED INVERTER STATIONS 3400 KW/PH AT 400 (2100 KW CAPACITY AT THE REQUIRED REACTIVE CAPABILITY)
 (2) POWER ELECTRONICS PER PHASOR INTEGRATED INVERTER STATIONS 3400 KW/PH FULL CAPACITY AVAILABLE
- SCADA SYSTEM HAS ACTIVE POWER CONTROL CAPABILITY OF BOTH TOTAL PLANT OUTPUT AND INDIVIDUAL INVERTER STATIONS TO PREVENT EXCEEDING MAXIMUM INTERCONNECTOR CAPACITY (50 MW AC)
- DISPATCHER (SWR #1) CAN PROVIDE A REMOTE POWER RANGE OF UP TO 10 MW/PH WITH STEPS OF 10 MW/PH
- DCSS (DC COUPLED) TO THE DC BUS OF EACH PV INVERTER WITH A COMBINED CAPACITY NOT TO EXCEED 30 MW AC. THE SYSTEM RATING FOR THE DCSS SHALL BE 120MA DC/1 MI
- AS PER AGREEMENT WITH SWR, PROJECT SUBSTATION IS LOCATED WITHIN POWERED ROAD SUBSTATION POWERED THUS, PVI IS LOCATED ON THE HIGH SIDE OF MAIN TRANSFORMER AS ILLUSTRATED ON THE SINGLE LINE DIAGRAM.

LEGEND	
	3P SINGLE DISCONNECT
	CIRCUIT BREAKER
	MV FUSE
	CURRENT TRANSFORMER
	POTENTIAL TRANSFORMER
	SURGE ARRESTER
	PV INVERTER
	DCSS (BI-DIRECTIONAL) DC CONVERTER
	PHOTOVOLTAIC MODULE

DNV-GL

100 Grand Ave., Suite 500
 Oakland, CA 94612

REGULATORY COMPLIANCE
 REGULATORY COMPLIANCE
 REGULATORY COMPLIANCE
 REGULATORY COMPLIANCE
 REGULATORY COMPLIANCE



SINGLE LINE DIAGRAM

PRELIMINARY - NOT FOR CONSTRUCTION

ATTACHMENT B

Schedule of Rates

The Contract Price for the initial twenty (20) years after the Commercial Operation Date will be \$31.52 per MWh. The Test Energy Rate is the amount equal to fifty percent (50%) of the Contract Price.

ATTACHMENT C

Net Energy Delivery Requirements – Contract Quantity

<u>1</u>	117,734 MWh
<u>2</u>	117,145 MWh
<u>3</u>	116,560 MWh
<u>4</u>	115,997 MWh
<u>5</u>	115,397 MWh
<u>6</u>	114,820 MWh
<u>7</u>	114,246 MWh
<u>8</u>	113,675 MWh
<u>9</u>	113,106 MWh
<u>10</u>	112,541 MWh
<u>11</u>	111,978 MWh
<u>12</u>	111,418 MWh
<u>13</u>	110,861 MWh
<u>14</u>	110,307 MWh
<u>15</u>	109,755 MWh
<u>16</u>	109,206 MWh
<u>17</u>	108,660 MWh
<u>18</u>	108,117 MWh
<u>19</u>	107,576 MWh
<u>20</u>	107,039 MWh

ATTACHMENT D
INSURANCE REQUIREMENTS

(i) Workers' Compensation Insurance for statutory obligations imposed by applicable Laws, including, where applicable, the Alternate Employer Endorsement, the United States Longshoremen's and Harbor Workers' Act, the Maritime Coverage and the Jones Act;

(ii) Employers' Liability Insurance, including Occupational Disease, shall be provided with a minimum limit of (i) **One Million Dollars (\$1,000,000)** for bodily injury per accident, (ii) **One Million Dollars (\$1,000,000)** for bodily injury by disease per policy, and (iii) **One Million Dollars (\$1,000,000)** for bodily injury by disease per employee;

(iii) Business Automobile Liability Insurance which shall apply to all owned, non-owned, leased, and hired automobiles with a minimum limit of **One Million Dollars (\$1,000,000)** combined single limit per accident for bodily injury and property damage;

(iv) Commercial General Liability Insurance which shall apply to liability arising out of premises, operations, bodily injury, property damage, products and completed operations and liability insured under and insured contract (contractual liability), with a minimum limit of **Five Million Dollars (\$5,000,000)** per occurrence, **Ten Million Dollars (\$10,000,000)** aggregate. The products and completed operations coverage insurance shall be provided for the duration of any applicable warranty period;

(v) Excess Liability Insurance which shall apply to Employers Liability, Commercial General Liability and Business Automobile Liability Insurance, required in (b), (c), and (d) above, with a minimum limit of **Ten Million Dollars (\$10,000,000)** per occurrence and **Ten Million Dollars (\$10,000,000)** aggregate;

(vi) Upon commencement of construction of the Facility, Builder's Risk Insurance with limits of insurance written on a probable maximum loss basis, subject to commercially reasonable coverage available in the marketplace; provided that physical loss or damage caused by wind, earthquakes and flood exposure shall not exceed **Ten Million Dollars (\$10,000,000)**, and including coverage for all equipment, supplies and materials in storage or transit;

(vii) Following the Commercial Operation Date, All-Risk Property Insurance with limits of insurance written on a probable maximum loss basis, subject to commercially reasonable coverage available in the marketplace; provided that physical loss or damage caused by wind, earthquake, and flood exposures shall not exceed **Ten Million Dollars (\$10,000,000)**.

ATTACHMENT E
Form of Parent Guarantee

THIS RENEWABLE ENERGY POWER PURCHASE AGREEMENT GUARANTY, dated as of _____ (this "Guarantee"), is issued by [name of guarantor], a _____ and parent company of Obligor ("Guarantor") in favor of [_____] ("Guaranteed Party"). [BENEFICIARY], a Delaware limited liability company ("Obligor") is a wholly owned subsidiary of Guarantor.

A. RECITALS

Obligor and Guaranteed Party have entered into a Renewable Energy Power Purchase Agreement, dated as of [____], 2020 (the "Agreement").

This Guarantee is delivered to Guaranteed Party by Guarantor as Performance Assurance pursuant to the Agreement. All terms defined in the Agreement and not otherwise defined in this Guarantee have the meanings given to them in the Agreement.

AGREEMENT

Guarantee.

Guarantee of Obligations Under the Agreement. For value received, Guarantor absolutely, unconditionally and irrevocably, as primary Obligor and not as surety, subject to the express terms hereof, guarantees the payment and performance when due of all obligations, whether now in existence or hereafter arising, by Obligor to or for the benefit of Guaranteed Party relating to the Agreement (the "Obligations"). This Guarantee is one of payment and not of collection and shall apply regardless of whether recovery, payment or performance of all such Obligations may be or become discharged or uncollectible in any bankruptcy, insolvency or other similar proceeding, or otherwise unenforceable.

Maximum Guaranteed Amount. Notwithstanding anything to the contrary, Guarantor's aggregate obligation to Guaranteed Party for liabilities arising prior to achievement of Commercial Operation of the Facility hereunder is limited to **the Development Period Security** amount (the "Maximum Guaranteed Amount") (it being understood for purposes of calculating the Maximum Guaranteed Amount of Guarantor hereunder for such liabilities that any payment by Guarantor either directly or indirectly to the Guaranteed Party, pursuant to a demand made upon Guarantor by Guaranteed Party or otherwise made by Guarantor pursuant to its obligations under this Guarantee, including any indemnification obligations for which Obligor is not obligated to insure under the Agreement, shall reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis), excluding costs and expenses incurred by Guaranteed Party in enforcing this Guarantee, including attorney's fees and costs, and shall not either individually or in the aggregate be greater or different in character or extent than the obligations of Obligor to Guaranteed Party under the terms of the Agreement except as provided [____].

Payment; Currency. All sums payable by Guarantor hereunder shall be made to Buyer to an account designated by Buyer in freely transferable and immediately available funds and shall be made in the currency in which the Obligations were due, i.e. United States Dollars.

Waiver of Certain Defenses. Guarantor irrevocably waives: (a) notice of acceptance of this Guarantee and of the Obligations and any action taken or which might be taken with regard thereto; (b) presentment, demand for payment, protest, notice of dishonor or non-payment, suit, or the taking of any other action by Guaranteed Party against Obligor, Guarantor, Affiliates, insurers or others; (c) any right to require

Guaranteed Party to proceed against Obligor or any other Person, or to require Guaranteed Party first to exhaust any rights, remedies, claims, demands or causes of action against Obligor or any other Person or collateral or security of any other Person, before proceeding against Guarantor hereunder; and (d) any defense based upon (i) an election of remedies by Guaranteed Party; (ii) a change in the financial condition, corporate or limited liability company existence, structure, financing, control, management or ownership of the Guarantor or Obligor; (iii) the institution by or against Obligor or any other Person of any bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other proceeding affecting Obligor or its assets or any resulting release, stay or discharge of any Obligations; (iv) any lack or limitation of power, incapacity or disability on the part of Obligor or of its Affiliates or their respective officers, members, managers, directors, partners or agents or any other irregularity, defect or informality on the part of Obligor in the authorization or approval of the Obligations; (v) any lack of validity or enforceability of the Obligations; (vi) any amendment, restatement, release, discharge, substitution or waiver of the Agreement or any of the Obligations or collateral or security of any other Person; and (vii) any obligations or duty of Guaranteed Party to disclose to Guarantor or to notify Guarantor of any facts concerning Obligor, the Agreement or the Facility, or any other circumstances that might increase the obligations, defenses or risk to Guarantor under this Guarantee, whether now known or hereafter learned by Guaranteed Party, it being understood that Guarantor is capable of and does hereby assume the risk and responsibility for being and remaining informed as to all such facts and circumstances.

Without limitation to the foregoing, Guaranteed Party shall have the right to at any time and from time to time without notice to or approval or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) renew, compromise, extend, accelerate or otherwise change, substitute or supersede the Obligations; (b) take or fail to take any action of any kind in respect of any security for the Obligations, or impair, exhaust, exchange, enforce, waive or release any such security; (c) exercise or refrain from exercising any causes of action, rights or remedies against Obligor or other Persons in respect of the Obligations, the Agreement or the Facility; or (d) waive, compromise or subordinate the Obligations, including any security therefor, or grant any forbearances, extensions or waivers, on one or more occasions, for any length of time, or accept any compromise or settlements with respect to Obligor's performance of any of the Obligations.

Except as expressly set forth in this paragraph and the preceding paragraph, Guarantor shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that Obligor may have to payment or performance of any of the Obligations that are expressly provided to Obligor with respect to the default by Guaranteed Party of its obligations under this Agreement and also shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that the Guarantor may have directly against the Guaranteed Party relating to the Agreement, other than (a) defenses arising from the insolvency, reorganization or bankruptcy of Obligor, (b) defenses expressly waived in the Agreement by Guarantor, (c) defenses arising by reason of (i) Guarantor's direct or indirect ownership interests in or control of Obligor, or (ii) legal requirements applicable to Obligor that prevent the payment by Obligor of its payment obligations that constitute Obligations, and (d) defenses previously asserted by Obligor in writing in accordance with the Agreement against such claims to the extent such defenses have been resolved in favor of Guaranteed Party by a court of last resort.

Term. This Guarantee shall continue in full force and effect until the earlier to occur of (a) the substitution of an alternative form of Performance Assurance by Obligor acceptable to Guaranteed Party, (b) the unconditional, irrevocable satisfaction of all Obligations of Obligor under the Agreement, or (c) [the payment by Guarantor, without reservation of rights, of an aggregate amount equal to the Maximum Guaranteed Amount], together with any other amounts required to be paid by Guarantor pursuant to the Guarantee. Guarantor further agrees that this Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment or performance, or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

Subrogation. Until all Obligations are indefeasibly paid and discharged in full and performed, Guarantor waives all rights of subrogation, reimbursement, contribution and indemnity from Obligor with respect to this Guarantee and any collateral held therefor, and Guarantor subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations hereunder. Any amount paid to Guarantor on account of any purported subrogation rights prior to the termination of this Guarantee shall be held in trust for the benefit of Guaranteed Party and shall immediately thereafter be paid to Guaranteed Party.

Expenses. Whether or not legal action is instituted, Guarantor agrees to reimburse Guaranteed Party on written demand for all reasonable attorneys' fees and all other reasonable costs and expenses incurred by Guaranteed Party in exercising and enforcing its claims, causes of action, defenses, rights and remedies under this Guarantee. Notwithstanding the foregoing, the Guarantor shall [have no obligation to pay] any such costs or expenses if, in any action or proceeding brought by Guaranteed Party giving rise to a demand for payment of such costs or expenses, such action is finally adjudicated that the Guarantor is not liable to make any payment under this Guarantee.

Assignment. Guarantor shall not be permitted to assign its rights or delegate its obligations under this Guarantee in whole or in part without written consent of Guaranteed Party in its absolute and sole discretion. Guaranteed Party shall not be permitted to assign its rights hereunder except in connection with a permitted assignment of its rights and obligations under the Agreement.

Non-Waiver. The failure of Guaranteed Party to exercise any right or enforce any provisions of this Guarantee at any time or for any period of time shall not be construed to be a release of Obligor or Guarantor, a waiver of any such provision or the right thereafter to enforce same. All remedies of Guaranteed Party under this Guarantee shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity. The terms and provisions hereof may not be waived, altered, modified or amended except in a writing executed by Guarantor and Guaranteed Party.

Entire Agreement. This Guarantee and the Agreement are the entire and only agreements with respect to the guarantee of the Obligations of Obligor by Guarantor. All prior or contemporaneous agreements or undertakings made by Guaranteed Party or Guarantor, which are not set forth in this Guarantee, are superseded.

Notice. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by Guarantor or by Guaranteed Party shall be in writing and shall be deemed received (a) if given personally, when received; (b) if mailed by certified mail (postage prepaid and return receipt requested), five (5) days after deposit in the U.S. mail; (c) if given by facsimile, when transmitted with confirmed transmission; or (d) if given via overnight express courier service, when received or personally delivered, in each case with charges prepaid and addressed as follows (or such other address as either Guarantor or Guaranteed Party shall specify in a notice delivered to the other in accordance with this Section):

If to Guarantor:

Attn: _____

If to Guaranteed Party:

Attn: _____

Counterparts. This Guarantee may be executed in counterparts, each of which when executed and delivered shall constitute one and the same instrument.

Governing Law; Jurisdiction. This Guarantee shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of law. Guarantor and Guaranteed Party hereby submit to the jurisdiction and venue of any federal district court or state court located in Alachua County, Florida over any disputes relating to this Guarantee.

Jury Trial Waiver. Guarantor and Guaranteed Party each waives to the maximum extent permissible by Law the right to trial by jury with respect to any claim, demand, cause of action, dispute, disagreement, defense or controversy between the Parties hereto relating to this Guarantee.

Further Assurances. Guarantor shall directly take or otherwise cause to be promptly and duly taken, executed, acknowledged and delivered such acts and further documents and instruments as Guaranteed Party may from time to time reasonably request by written notice in order to carry out the intent and purposes of this Guarantee.

Limitation on Liability. Except as specifically provided in this Guarantee, and without waiving any right, remedy, claim, defense or cause of action against Obligor or others arising under the Agreement, Guaranteed Party shall have no claim, remedy or right to proceed against any past, present or future stockholder, partner, member, director or officer of Guarantor (excluding Obligor) for the payment of any of the Obligations or any claim arising out of any agreement, certificate, representation, covenant or warranty made by Obligor in the Agreement.

Effectiveness. This Guarantee shall be effective as of the date set forth in the first paragraph hereof upon its execution by both Guarantor and Guaranteed Party.

IN WITNESS WHEREOF, Guarantor and Guaranteed Party have executed and delivered this Guarantee.

[Guarantor]

By: _____
Name:
Title:

Acknowledged and agreed

[Guaranteed Party]

By: _____
Name:
Title:

ATTACHMENT F-1
Form of Letter of Credit

Irrevocable Standby Letter of Credit No.

Date of Issuance:

Beneficiary: [Buyer Name]

Applicant/Account Party: [_____]

Amount: USD Amount ([Amount] and 00/100)

Initial expiration date at our counter (unless evergreen):

Final expiration date at our counter:

Ladies and Gentlemen:

We, [Bank Name]

("Issuer" or "Issuing Bank"), do hereby issue this Irrevocable Transferable Standby Letter of Credit ("Letter of Credit") No. {_____} by order of, for the account of, and on behalf of [_____] ("Account Party") and in favor of [Buyer Name]. The term "Beneficiary" includes any successor by operation of law of the named beneficiary including without limitation any liquidator, receiver or conservator.

This Letter of Credit is issued, presentable and payable at the office of the Issuing Bank and we guarantee to the Beneficiary that drafts and documents drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation pursuant to the terms of this Letter of Credit.

This Letter of Credit is available in one or more drafts drawn on [Bank Name] and may be drawn hereunder for the account of up to an aggregate amount not exceeding unless replenished in accordance with the Agreement [\$Amount]. This Letter of Credit is drawn against by presentation to Issuer at its office located at [Bank Address] of a drawing certificate (i) signed by an officer of the Beneficiary; (ii) dated the date of presentation; and (iii) the following statement:

"The undersigned hereby certifies to [Bank Name] ("Issuer"), with reference to its Irrevocable Transferable Standby Letter of Credit No.[_____], dated [_____], issued on behalf of [_____] ("Account Party") and in favor of the [Buyer Name], ("Beneficiary") that:

(a) [said Account Party has failed to make payment and/or perform in accordance with the terms and provisions of the Renewable Energy Power Purchase Agreement dated [] to which Account Party and Beneficiary are parties, as such agreement may be amended and supplemented from time to time, and any replacements or substitutions thereof, (collectively, the "Agreement").]

--or--

[(b) Beneficiary has received notice from the Issuing Bank pursuant to the terms of the Letter of Credit that Issuing Bank elects not to extend the Letter of Credit for an additional one-year

period, and (ii) the Letter of Credit will expire in fewer than thirty (30) days from the date hereof. As such, as of the date hereof Beneficiary is entitled to draw under the Letter of Credit.]

The Beneficiary hereby draws upon the Letter of Credit in an amount equal to \$[insert amount in figures] (United States Dollars [insert amount in words])."

If presentation of any drawing certificate is made to Issuer on a Business Day and such presentation is made on or before 10:00 a.m. Eastern Time, Issuer shall satisfy such drawing request on the second Business Day. If the drawing certificate is received after 10:00 a.m. Eastern Time, Issuer will satisfy such drawing request on the third Business Day.

It is a condition of the Letter of Credit that it will be automatically extended without amendment for additional one-year periods until [] (the "Final Expiration Date"), unless at least one hundred twenty (120) days prior to any expiration date Issuer sends Beneficiary written notice at the above address by registered mail or overnight courier service that Issuer elects not to consider this Letter of Credit extended for any such period.

This Letter of Credit may be transferred in its entirety (but not in part) by Issuing Bank to a transferee designated by Beneficiary only upon presentation to Issuing Bank of a Request for Transfer signed by the Beneficiary in the form of Exhibit A accompanied by this original Letter of Credit and any amendment(s), in which the Beneficiary irrevocably transfers to such transferee all of its rights hereunder, whereupon Issuer agrees to either issue a transferred letter of credit to such transferee or endorse such transfer on the reverse of this Letter of Credit. Any transfer fees assessed by the Issuer will be payable solely by the transferee.

Payments under the Letter of Credit shall be in accordance with the following terms and conditions:

All fees, commissions and charges will be borne by the Account Party.

This Letter of Credit shall be governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, (the "ISP"), except to the extent that terms hereof are inconsistent with the provisions of the ISP, in which case the terms of this Letter of Credit shall govern. This Letter of Credit shall be governed by the internal laws of the State of Florida to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and such Florida laws, the ISP shall control.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary and the Issuer.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed an express written waiver.

No such waiver, unless expressly so stated therein, shall be effective as to any breach, failure or transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

Partial drawings and multiple drawings are permitted.

A failure to make any drawing at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or Issuer's obligation to honor Beneficiary's subsequent demands for payment and draws made in accordance with the terms of this Letter of Credit.

Original Letter of Credit and all amendments need to be presented for a drawing. If the drawing is a partial drawing, Issuer will endorse the drawing amount on the back of the original Letter of Credit and return the same to Beneficiary.

EXHIBIT A UNDER STANDBY LETTER OF CREDIT NO.
REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY

Date: _____

[Bank Name and Address]
Re: Standby Letter of Credit No.

For value received, the undersigned Beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE _____

ADDRESS OF TRANSFEREE _____

CITY, STATE/COUNTRY ZIP _____

(hereinafter, the "Transferee") all rights of the undersigned Beneficiary to draw under above Letter of Credit, in its entirety.

By this transfer, all rights of the undersigned Beneficiary in such Letter of Credit are transferred to the Transferee and the Transferee shall have the sole rights as "Beneficiary" hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the Transferee without necessity of any consent of or notice to the undersigned Beneficiary.

The original of such Letter of Credit and all amendment(s), if any, are returned herewith, and Beneficiary requests Issuer to issue a Transferred Letter of Credit or endorse the transfer on the reverse thereof, and forward it directly to the Transferee with customary notice of transfer.

In payment of Issuer transfer commission in amount equal to ¼% of the amount transferred, minimum of \$250.00

, the Beneficiary has wired funds to Issuer through _____ bank and in addition thereto, Beneficiary agrees to pay Issuer on demand any expenses which may be incurred by Issuer in connection with this transfer.

Very truly yours, [BENEFICIARY NAME]

Authorized Signature

The signature(s) of _____ with title(s) as stated conforms to those on file with Issuer; are authorized for the execution of such instrument; and the Beneficiary has been approved under Issuer's Customer Identification Program.

(Signature of Authenticating Bank)

(Name of Bank)

(Printed Name/Title) (Date)

(1) FOR BANK USE ONLY	
Confirmation of Authenticating Bank's signature performed by:	

Date: _____	Time: _____
	a.m./p.m.
Addl Info.:	

ATTACHMENT F-2
Form of Surety Bond

RENEWABLE ENERGY POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we _____
(hereinafter called "Principal"), and [_____] authorized to do business in the State of _____
_____ (hereinafter called "Surety") are held and firmly bound unto _____ (hereinafter called "Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to exceed the penal sum of _____ (\$ _____) DOLLARS, good and lawful money of the United States of America ("Bond"), the payment of which, well and truly to be made, we do bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written agreement with the above named Obligee, effective the _____ day of _____, 20____, for the

_____ (hereinafter called "Agreement") which Agreement is hereby referred to and made a part hereof as fully and to the same extent as if copies at length were attached herein.

The obligation of this Bond shall be null and void unless: (1) the above Agreement is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in Default under the above Agreement (hereinafter called "Default"), and is declared by the Obligee thereafter to be in Default; and (3) the Obligee has provided written notice of the Default to the Surety as promptly as possible, and in any event, within fifteen (15) days after such Default.

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable thereafter, tender payment thereof to the Obligee; or
2. Pay the full amount of the above penal sum in complete discharge and exoneration of this Bond, and of all liabilities of the Surety relating hereto.

PROVIDED HOWEVER, that this Bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

1. This Bond may be cancelled by providing sixty days (60) written notice of cancellation given by certified mail to the Obligee and to the Principal at the addresses stated below. Such cancellation shall in no way limit the liability of the Surety for subsequent defaults of the Principal's obligation incurred prior to such termination. In the event of cancellation, the Principal is responsible for providing alternate security to the Obligee thirty (30) days prior to the termination date, otherwise to be considered in Default under the Agreement and the Obligee shall be entitled to submit a Demand (as defined below) and receive payment under this Bond.
2. A reorganization under Chapter 11 of the U.S. Bankruptcy Code by the Principal shall not constitute an event of Default recoverable under this Bond if they continue to perform their obligations under the Agreement.
3. In the event the Principal fails to make any payments due to the Obligee which would constitute the basis of a Default, within ten (10) Business Days of Surety's receipt of a Demand for payment under this Bond (hereinafter called "Demand"), Surety shall pay to the Obligee the amount of such Demand. The Surety shall cause to be paid all payments then past due, and in so doing cure any Default under the Agreement. The Obligee may present one or more Demands at any time in its sole discretion, provided however, Surety shall not be obligated to pay an aggregate amount in excess of the penal sum of this Bond less any amounts previously paid by the Surety.

4. Surety's liability under this Bond issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this Bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this Bond unless same be brought or instituted and process served upon the Surety within six (6) months following the effective cancellation date of this Bond.
6. Any notice given or required under the Agreement or this Bond will be made to the following representatives of the Parties:
 - a. To: {Principal}

 - b. To: {Obligee}

 - c. To: {Surety}

In the event of conflict or inconsistency between the provisions of this Bond and the provisions of the above Agreement, the provisions of this Bond shall control. The Obligee's acceptance of this Bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this _____ day of _____ 20__.

WITNESS:

PRINCIPAL:

 (Name & Title)

 (Signature) (SEAL)

 (Name & Title)

WITNESS:

SURETY:

 (Name & Title)

 (Signature) (SEAL)

 (Name, as Attorney-in-Fact)

ATTACHMENT G
Form of Status Report



Project:
Recipient:

STATUS REPORT

Pursuant to the Agreement including Section 5.3(b), after the Effective Date and before the Commercial Operation Date, Seller will provide Buyer with monthly status reports advising Buyer of the current status of the Facility, the status of obtaining required Permits, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date.

I. Overview

Milestone	Expected Completion	Status	Notes
Interconnect Screening Study		Pending	
Start of Permitting		Pending	
Completion of Site Studies		Pending	
Interconnection Application		Pending	
System Impact Study		Pending	
Local Permitting Complete		Pending	
Facilities Study		Pending	
Interconnection Agreement		Pending	
Seller Notice to Proceed		Pending	
Start of Major Equipment Delivery to Site		Pending	
Back Feed Available		Pending	
Commercial Operation Date		Pending	

II. Status Updates

- **Interconnection Agreement**
 - **Status update:**

 - **Discussion of any foreseeable disruptions or delays:**

- **Permits, Licenses, Easements and Approvals to Construct**
 - Status update:

 - Discussion of any foreseeable disruptions or delays:

- **Financing**
 - Status update:

 - Discussion of any foreseeable disruptions or delays:

- **Construction Notice To Proceed**
 - Status update:

 - Discussion of any foreseeable disruptions or delays:

- **Major Equipment Delivered to Site**
 - Status update:

 - Discussion of any foreseeable disruptions or delays:

- **Commercial Operation Date**
 - Status update:

 - Discussion of any foreseeable disruptions or delays:

Report Completed: [Date, Sender Initials]

ATTACHMENT H

Form of Environmental Attributes Bill of Sale

I. Seller Information

Name of Seller: _____

Address of Seller: _____

Contact Person: _____ Title: _____

Telephone: _____ Fax: _____ Email Address: _____

II. Declaration

I, (print name and title) , declare that the Environmental Attributes (as defined in the Renewable Energy Power Purchase Agreement between Gainesville Regional Utilities and FL Solar [], LLC dated [____], 2020 (the "REPPA")) listed below were sold exclusively from: (name of Seller or Seller's permitted designee) [____] ("Seller") to [____] (name of Buyer or Buyer's designee) ("Buyer").

# MWhs Environmental Attributes Transferred	Period of Generation (mm/yy)

I further declare that:

- 1) all the Environmental Attributes listed above were generated or procured by Seller;
- 2) Seller has not transferred and will not transfer the Environmental Attributes to any Person other than Buyer;
- 3) the Environmental Attributes were not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Seller, nor, to the best of my knowledge, by any other entity; and
- 4) Environmental Attributes transferred to Buyer include RECs which shall be registered and eligible under the Applicable Program specified in the REPPA.

As an authorized agent of Seller, I attest that the above statements are true and correct.

Signature

Date

Place of Execution

ATTACHMENT I

Indicative Value of Facility - Option Price

Contract Year	Option Price
8 th	\$49,227,000
12 th	\$40,858,000
16 th	\$32,488,000

For the avoidance of doubt, the Option Price is based on a reasonable estimate by Seller of the future value of the following elements as of the Effective Date: (1) the outstanding Facility Debt; (2) the outstanding return on investment of all equity Lenders; (3) estimated output on annual basis with degrading over time; (4) prices under the Agreement and merchant forecast prices; and (5) value of material project contracts, interconnection, development, site control and other Facility investments.

Upon Buyer's request in connection with obtaining necessary approvals to exercise the Purchase Option, Seller will cooperate with Buyer and, to the extent commercially reasonable, assist by providing to Buyer a detailed explanation of the determination of the Option Price and supporting documentation and evidence.

This Agreement will automatically terminate upon closing of a transfer of the Facility to Buyer in accordance with this Agreement and neither Party will have any further obligations hereunder, except those obligations which are accrued and those which are expressly provided to survive termination.

ATTACHMENT J

Example Calculation - Ramp Rate Allotment (Illustration Only)

Example of Ramp Rate Allotment

June 2023

Day of Month	Sunrise Time	Sunset Time	Day Length (h:mm)	Minutes in Day	MW Multiplier	MW-Minutes
1	6:29 AM	8:24 PM	13:55	835	3	2505
2	6:29 AM	8:25 PM	13:56	836	3	2508
3	6:29 AM	8:25 PM	13:56	836	3	2508
4	6:29 AM	8:26 PM	13:57	837	3	2511
5	6:28 AM	8:26 PM	13:58	838	3	2514
6	6:28 AM	8:27 PM	13:59	839	3	2517
7	6:28 AM	8:27 PM	13:59	839	3	2517
8	6:28 AM	8:28 PM	14:00	840	3	2520
9	6:28 AM	8:28 PM	14:00	840	3	2520
10	6:28 AM	8:29 PM	14:01	841	3	2523
11	6:28 AM	8:29 PM	14:01	841	3	2523
12	6:28 AM	8:29 PM	14:01	841	3	2523
13	6:28 AM	8:30 PM	14:02	842	3	2526
14	6:28 AM	8:30 PM	14:02	842	3	2526
15	6:28 AM	8:31 PM	14:03	843	3	2529
16	6:28 AM	8:31 PM	14:03	843	3	2529
17	6:28 AM	8:31 PM	14:03	843	3	2529
18	6:29 AM	8:31 PM	14:02	842	3	2526
19	6:29 AM	8:32 PM	14:03	843	3	2529
20	6:29 AM	8:32 PM	14:03	843	3	2529
21	6:29 AM	8:32 PM	14:03	843	3	2529
22	6:29 AM	8:32 PM	14:03	843	3	2529
23	6:30 AM	8:32 PM	14:02	842	3	2526
24	6:30 AM	8:33 PM	14:03	843	3	2529
25	6:30 AM	8:33 PM	14:03	843	3	2529
26	6:30 AM	8:33 PM	14:03	843	3	2529
27	6:31 AM	8:33 PM	14:02	842	3	2526
28	6:31 AM	8:33 PM	14:02	842	3	2526
29	6:31 AM	8:33 PM	14:02	842	3	2526
30	6:32 AM	8:33 PM	14:01	841	3	2523
					Total MW-Minutes	75,684
					1.5% Factor	1.5%
					Ramp Rate Allotment (MW-Minutes)	1,135

ATTACHMENT K-1

Example calculation - Ramp Rate Exceedance Deposit (Illustration Only)

Date	Time	Ramp Rate to Next Minute (MW)	Ramp Rate Less 3 MW (Ramp Rate Exceedance)	Date	Time	Ramp Rate to Next Minute (MW)	Ramp Rate Less 3 MW (Ramp Rate Exceedance)	Date	Time	Ramp Rate to Next Minute (MW)	Ramp Rate Less 3 MW (Ramp Rate Exceedance)	Date	Time	Ramp Rate to Next Minute (MW)	Ramp Rate Less 3 MW (Ramp Rate Exceedance)
6/1/2023	10:29 AM	6	3	6/9/2023	11:09 AM	7	4	6/17/2023	11:49 AM	6	3	6/25/2023	12:29 PM	15	12
6/1/2023	10:40 AM	16	13	6/9/2023	11:20 AM	8	5	6/17/2023	12:00 PM	20	17	6/25/2023	12:40 PM	19	16
6/1/2023	12:29 PM	5	2	6/9/2023	1:09 PM	16	13	6/17/2023	1:49 PM	16	13	6/25/2023	2:29 PM	8	5
6/1/2023	3:49 PM	12	9	6/9/2023	4:29 PM	20	17	6/17/2023	5:09 PM	16	13	6/25/2023	5:49 PM	6	3
6/2/2023	10:34 AM	9	6	6/10/2023	11:14 AM	20	17	6/18/2023	11:54 AM	14	11	6/26/2023	12:34 PM	9	6
6/2/2023	10:45 AM	16	13	6/10/2023	11:25 AM	19	16	6/18/2023	12:05 PM	17	14	6/26/2023	12:45 PM	6	3
6/2/2023	12:34 PM	16	13	6/10/2023	1:14 PM	16	13	6/18/2023	1:54 PM	13	10	6/26/2023	2:34 PM	8	5
6/2/2023	3:54 PM	13	10	6/10/2023	4:34 PM	10	7	6/18/2023	5:14 PM	6	3	6/26/2023	5:54 PM	19	16
6/3/2023	10:39 AM	6	3	6/11/2023	11:19 AM	19	16	6/19/2023	11:59 AM	19	16	6/27/2023	12:39 PM	15	12
6/3/2023	10:50 AM	19	16	6/11/2023	11:30 AM	20	17	6/19/2023	12:10 PM	14	11	6/27/2023	12:50 PM	19	16
6/3/2023	12:39 PM	20	17	6/11/2023	1:19 PM	8	5	6/19/2023	1:59 PM	16	13	6/27/2023	2:39 PM	20	17
6/3/2023	3:59 PM	15	12	6/11/2023	4:39 PM	11	8	6/19/2023	5:19 PM	8	5	6/27/2023	5:59 PM	11	8
6/4/2023	10:44 AM	8	5	6/12/2023	11:24 AM	14	11	6/20/2023	12:04 PM	19	16	6/28/2023	12:44 PM	8	5
6/4/2023	10:55 AM	17	14	6/12/2023	11:35 AM	7	4	6/20/2023	12:15 PM	8	5	6/28/2023	12:55 PM	19	16
6/4/2023	12:44 PM	6	3	6/12/2023	1:24 PM	12	9	6/20/2023	2:04 PM	7	4	6/28/2023	2:44 PM	18	15
6/4/2023	4:04 PM	10	7	6/12/2023	4:44 PM	12	9	6/20/2023	5:24 PM	7	4	6/28/2023	6:04 PM	18	15
6/5/2023	10:49 AM	7	4	6/13/2023	11:29 AM	13	10	6/21/2023	12:09 PM	8	5	6/29/2023	12:49 PM	16	13
6/5/2023	11:00 AM	16	13	6/13/2023	11:40 AM	12	9	6/21/2023	12:20 PM	10	7	6/29/2023	1:00 PM	17	14
6/5/2023	12:49 PM	8	5	6/13/2023	1:29 PM	6	3	6/21/2023	2:09 PM	12	9	6/29/2023	2:49 PM	7	4
6/5/2023	4:09 PM	9	6	6/13/2023	4:49 PM	9	6	6/21/2023	5:29 PM	17	14	6/29/2023	6:09 PM	6	3

6/6/2023	10:54 AM	13	10		6/14/2023	11:34 AM	8	5		6/22/2023	12:14 PM	7	4		6/30/2023	12:54 PM	15	12
6/6/2023	11:05 AM	7	4		6/14/2023	11:45 AM	19	16		6/22/2023	12:25 PM	13	10		6/30/2023	1:05 PM	6	3
6/6/2023	12:54 PM	14	11		6/14/2023	1:34 PM	9	6		6/22/2023	2:14 PM	6	3		6/30/2023	2:54 PM	8	5
6/6/2023	4:14 PM	20	17		6/14/2023	4:54 PM	14	11		6/22/2023	5:34 PM	15	12		6/30/2023	6:14 PM	7	4
6/7/2023	10:59 AM	11	8		6/15/2023	11:39 AM	17	14		6/23/2023	12:19 PM	11	8					
6/7/2023	11:10 AM	10	7		6/15/2023	11:50 AM	7	4		6/23/2023	12:30 PM	15	12					
6/7/2023	12:59 PM	8	5		6/15/2023	1:39 PM	6	3		6/23/2023	2:19 PM	7	4					
6/7/2023	4:19 PM	19	16		6/15/2023	4:59 PM	19	16		6/23/2023	5:39 PM	14	11					
6/8/2023	11:04 AM	15	12		6/16/2023	11:44 AM	20	17		6/24/2023	12:24 PM	14	11					
6/8/2023	11:15 AM	11	8		6/16/2023	11:55 AM	7	4		6/24/2023	12:35 PM	9	6					
6/8/2023	1:04 PM	13	10		6/16/2023	1:44 PM	20	17		6/24/2023	2:24 PM	18	15					
6/8/2023	4:24 PM	11	8		6/16/2023	5:04 PM	20	17		6/24/2023	5:44 PM	7	4					

Total Exceedances (MW-minutes) 1140
Ramp Rate Allotment for Month (MW-minutes) 1135

Exceedances Less Ramp Rate Allotment 5

Ramp Rate Fixed Deposit (MWh) 1000
Ramp Rate Variable Deposit (MWh) 25

Total Ramp Rate Exceedance Deposit (MWh) 1025

ATTACHMENT K-2

Example Calculation - Curtailment Impact on Contract Quantity and Guaranteed Energy Production (Illustration Only)

Starting Contract Quantity (MWh): **117,734**

Guaranteed Energy Production (%): **85%**

Guaranteed Energy Production (MWh): **100,074**

Excess Delivery Limit (MWh): **135,394**

Column No.	A	B	C	D	E	F	G	H	I	J	K
Column Formula	-	-	-	-	= C * D	= B - E	= G (previous qty.) + F	= H (previous qty.) - F	= H * 85%	= A - B + E	= K (previous qty.) + J
Month	Net Energy Available for Delivery (MWh)	Net Energy Curtailed by GRU (MWh)	Net Energy used to Charge BESS during Curtailment (MWh)	BESS Roundtrip Efficiency	Net Energy stored in BESS during Curtailment (MWh)	Net Energy to be Subtracted from Contract Quantity (MWh)	Cumulative Net Energy to be Subtracted from Contract Quantity (MWh)	Adjusted Contract Quantity (MWh)	Adjusted Guaranteed Energy Production (MWh)	Metered Net Energy Delivered to GRU (MWh)	Cumulative Net Energy Delivered to GRU (MWh)
Jan-23	7,125	-	-	90%	-	-	-	117,734	100,074	7,125	7,125
Feb-23	7,256	526	201	90%	181	345	345	117,389	99,781	6,911	14,036
Mar-23	7,920	2,036	326	90%	293	1,743	2,088	115,646	98,299	6,177	20,213
Apr-23	8,530	2,653	253	90%	228	2,425	4,513	113,221	96,238	6,105	26,318
May-23	10,325	500	236	90%	212	288	4,801	112,933	95,993	10,037	36,355

Jun-23	10,152	200	-	90%	-	200	5,001	112,733	95,823	9,952	46,307
Jul-23	11,852	2,536	-	90%	-	2,536	7,537	110,197	93,668	9,316	55,623
Aug-23	5,726	-	-	90%	-	-	7,537	110,197	93,668	5,726	61,349
Sep-23	11,103	-	-	90%	-	-	7,537	110,197	93,668	11,103	72,452
Oct-23	10,356	326	189	90%	170	156	7,693	110,042	93,535	10,200	82,653
Nov-23	9,562	2,500	190	90%	171	2,329	10,022	107,713	91,556	7,233	89,886
Dec-23	8,023	263	25	90%	23	241	10,262	107,472	91,351	7,783	97,668

117,734	Contract Quantity on Jan. 1 (MWh)
100,074	Guaranteed Energy Production on Jan. 1 (MWh)
107,472	Adjusted Contract Quantity on Dec. 31 (MWh)
91,351	Adjusted Guaranteed Energy Production on Dec. 31 (MWh)
123,593	Adjusted Excess Delivery Limit on Dec. 31 (MWh)
97,668	Delivered Net Energy in Year (MWh)
-	Energy Shortfall (if [Adjusted Guaranteed Energy Production - Delivered Energy] > 0) (MWh)
\$	Performance Liquidated Damages due to GRU (\$)
-	

ATTACHMENT L

Technical Parameters and Operating Procedures

(Subject to periodic revision by agreement of the Parties)

The initial Operating Procedures will be developed in accordance with Section 5.1(i).

ATTACHMENT M

Form of Lender Consent and Estoppel

In the event Seller collaterally assigns its rights hereunder to the Financing Party as security, any related Lender Consent will contain provisions substantially as follows:

Buyer will not terminate the Agreement other than as provided therein, without the prior written consent of the Lender.

In connection with the exercise of its rights under the Financing Documents, the Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the Agreement, and Buyer shall accept any such performance by the Lender in a timely manner in accordance with the requirements of the Agreement to the same extent as if such performance was rendered by Seller itself.

Lender shall not assume, sell or otherwise dispose of its collateral interest in the Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Agreement (a) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Agreement in form and substance reasonably satisfactory to Buyer, which include the obligation to cure any and all defaults of Seller under the Agreement which are capable of being cured and which are not personal to Seller; (b) satisfies and complies with all requirements of the Agreement; (c) if applicable, delivers to Buyer a replacement for any Performance Assurance that is required to be delivered and maintained by Seller under the Agreement; and (d) is a Permitted Transferee (as defined below). Lender further acknowledges that the assignment of the Agreement to Lender is for security purposes only and that Lender has no rights under the Agreement to enforce the provisions of the Agreement unless and until an event of default has occurred and is continuing under the Financing Documents (a "Financing Default") or under the Agreement, in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations, covenants, representations, duties and liabilities which Seller then has or may have under the Agreement to the same extent and in the same manner as if Lender were an original party to the Agreement.

"Permitted Transferee" means any entity that (a) has an equal or better credit rating than the Seller or satisfies the collateral requirements of the Seller set forth in the Agreement; (b) has (or has contracted with for the purpose of the Agreement), or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least three (3) years, generating facilities of approximately the same size and type as the Facility; and (c) expressly assumes in writing all obligations of the Seller under the Agreement to the satisfaction of Buyer. Lender may from time to time, following the occurrence of a Financing Default, notify Buyer in writing of the identity of a proposed transferee of the Agreement, which proposed transferee may include Lender, in connection with the enforcement of Lender's rights, which notice shall include evidence reasonably acceptable to Buyer that the proposed transferee satisfies the criteria set forth above. Upon receipt of such notice, Buyer shall, within thirty (30) days of its receipt of such written notice, confirm to Lender whether or not such proposed transferee is a "Permitted Transferee" (together with a written statement of the reason(s) for any negative determination) it being understood that if Buyer fails to so respond within such thirty (30) day period such proposed transferee shall be deemed to be a "Permitted Transferee".

If Buyer can exercise any right to terminate the Agreement due to an uncured Event of Default by Seller (to the extent there is a cure period), Buyer shall not terminate the Agreement unless it has first given notice of such uncured Event of Default to the Lender and has given the Lender an Additional Cure Period to cure such Event of Default if there is a cure period. For the purposes of the Agreement, "Additional Cure Period" means (i) with respect to a monetary default, ten (10) Business Days in addition to the cure period

(if any) provided to Seller in the Agreement, and (ii) with respect to a non-monetary default, thirty (30) days in addition to the cure period (if any) provided to Seller in the Agreement. However, if the Lender requires possession of the Facility in order to cure the Event of Default and commences foreclosure proceedings and diligently pursues such proceedings against Seller within thirty (30) days of receiving notice of an Event of Default from Buyer or Seller, whichever is received first, Lender shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) days; provided, however, that Lender shall provide a written notice to Buyer that it intends to commence foreclosure proceedings with respect to Seller within ten (10) Business Days of receiving a notice of such Event of Default from Buyer or Seller, whichever is received first.

Neither the Lender nor any other participant in the Facility Debt shall be obligated to perform or be liable for any obligation of Seller under the Agreement until and unless any of them assumes the Agreement, and upon assumption of the Agreement shall be bound by all obligations, covenants, representations and warranties of Seller.

Any party taking possession of the Facility through the exercise of the Lender's rights and remedies shall remain subject to the terms of the Agreement and shall assume all of Seller's obligations under the Agreement, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Lender or its successor assumes the Agreement in accordance with this paragraph, Buyer shall continue the Agreement with the Lender or its successor, as the case may be, substituted wholly in the place of Seller.

Within sixty (60) days of any termination of the Agreement in connection with any bankruptcy or insolvency Event of Default of Seller, upon the request of Lender, the Lender (or its successor) and Buyer shall enter into a new power purchase agreement on the same terms and conditions as the Agreement to the extent practicable and for the period that would have been remaining under the Agreement but for such termination.

Buyer agrees to execute an estoppel certificate substantially in the form of Appendix A.

Appendix A to Form of Consent – Estoppel Certificate

[Buyer shall have the right to qualify and/or revise any representation, warranty and other statement that such representation, warranty or other statement is a true statement as of the date of this certificate.]

[Date]

Reference is made to that certain Renewable Energy Power Purchase Agreement dated as of [_____] (the "PPA"), by and between [_____] a [_____] organized and existing under the laws of [_____] ("Buyer"); and [_____] LLC, a [_____] ("Seller"). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. Buyer is a [_____] duly organized, validly existing and in good standing (if applicable) under the laws of the State of [_____] . The execution and delivery by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any further internal approval or consent of Buyer and to Buyer's actual knowledge do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.
2. The copy of the PPA, as amended, attached as Exhibit [_____] , constitutes a true and complete copy of the PPA.
3. To Buyer's actual knowledge, as of the date hereof, the PPA is in full force and effect and the PPA has not been assigned or amended by Buyer. All representations and warranties of Buyer under the PPA to Buyer's knowledge, remain true and correct in all material respects as of the date hereof, except for those that, by their nature or terms, apply only as of the date originally made[, except: _____].
4. As of the date hereof, (A) no default or Event of Default with respect to Buyer nor, to the Buyer's actual knowledge, Seller, has occurred under the PPA, and (B) to Buyer's actual knowledge, there are no material defaults (including breach(es) of the PPA with respect to Buyer existing as of the date hereof that are not yet defaults under the PPA because applicable cure periods have not yet expired) or circumstances which with the passage of time and/or giving of notice would constitute an Event of Default.
5. To Buyer's knowledge, there is no event, act, circumstance or condition constituting an event of Force Majeure under the PPA affecting Buyer's performance of its obligations.
6. As of the date hereof, there is no pending or, to Buyer's knowledge, threatened action or proceeding involving or relating to Buyer before any court, tribunal, Governmental Authority or arbitrator which purports to materially affect the legality, validity or enforceability of the PPA. There exist no pending or to the Buyer's actual knowledge, threatened disputes or legal proceedings between Buyer and Seller under the PPA or otherwise between Buyer and Seller.
7. All payments due, if any, under the PPA by Buyer have been paid in full through the period ending on the date hereof, subject to Buyer's audit rights.

[Signature page follows]

IN WITNESS WHEREOF, Buyer has caused this Estoppel Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

By:

Title:

Name:

ATTACHMENT N

Milestone Schedule, Required Milestones

Responsible Party	Milestone¹	Required Milestone?	Milestone Deadline
Seller	Site Control	Yes	Seller Notice to Proceed for construction of Facility minus 180 days
Seller	Interconnection Application	No	Effective Date of the Agreement plus 30 days
Seller and Interconnection Utility	Interconnection Agreement Execution	Yes	Date of submission of Interconnection Agreement Application plus 10 months.
Seller	Permitting Application	No	Scheduled Commercial Operation Date ("SCOD") minus 18 months
Seller and Buyer	Operating Procedures	No	SCOD minus 60 days
Buyer	Easement for Seller Interconnection Facilities at Parker Road Substation	Yes	Interconnection Agreement Execution plus 6 months
Seller	Transformer Delivery	No	SCOD minus 4 months
Buyer	Procure Breaker	No	SCOD minus 4 months
Seller	Seller Notice to Proceed	Yes	SCOD minus 8 months
Buyer	Buyer Interconnection Facilities Commencement Date	No	SCOD minus 9 months
Buyer	Complete Construction of Buyer Interconnection Facilities	No	SCOD minus 90 days
Seller and Buyer	Synchronization	Yes	SCOD minus 30 days
Seller	Commercial Operation	Yes	Scheduled Commercial Operation Date (<i>i.e.</i> 12/31/2022 (as may be extended in accordance with Article 4 of the Agreement))

¹ Note to Table: Each Milestone is described in Section 4.1 of the Agreement.

ATTACHMENT O

Community Outreach Activities

Seller acknowledges and commends Buyer's commitment to incorporate additional renewable energy into its energy resource portfolio to service its customers. In recognition of the fact that the Facility will be among the first large-scale solar resources Buyer has procured in furtherance of its renewable goals, Seller shall cooperate with Buyer and use Commercially Reasonable Efforts to contribute additional value to Buyer's community outreach and education activities related to the construction and operation of the Facility.

At a minimum, in consideration of receipt of the ITN award, Seller commits to the following:

- Providing Buyer, no later than the Effective Date, a project fact sheet containing key statistics about the Facility that may be disseminated at Buyer's discretion.
- Participating in a community ribbon-cutting ceremony open to the public to celebrate Commercial Operation of the Facility and providing a photovoltaic solar panel to be signed by school children in connection with the event that may later be displayed by Buyer in a manner of its choosing.
- Providing a web interface for public display of Facility production upon Buyer's request and provision of applicable hardware.
- Providing drone footage during the construction phase, if available, and permitting Buyer to take its own drone footage of the Facility upon reasonable notice, consistent with applicable Laws and regulations.
- Give preference to contractors, sub-contractors and vendors that commit to utilizing Commercially Reasonable Efforts to use local labor and resources in connection with Facility development and construction.
- Cause the Origis Foundation, the philanthropic arm of Seller's parent company, Origis Energy, to make a donation to Buyer's STEM Scholarship Program or similar program to support continued education of underprivileged youth.
- Ongoing collaboration with Buyer's marketing and communication team to explore other community outreach activities.

In addition, Seller will, in consultation with Buyer, plan and use Commercially Reasonable Efforts to do the following:

- Construct an access road and viewing platform with educational placards at the Site for use by educators, families, and the general public to learn about solar photovoltaic energy and battery energy storage systems.
- Host sheep or other grazing animals at the Site.
- Host areas of flowering ground cover in feasible areas to support a population of natural pollinators.