

## TERMS AND CONDITIONS

### [\_] MW [\_] SOLAR PROJECT

The terms and conditions set forth in this Terms and Conditions (this “Term Sheet”) are to be used as a basis for continued discussions relating to the potential tax equity investment transaction between [\_] (“Investor”) and [\_] (“Sponsor”) in respect of the [\_] MW (ac) solar generation project (the “Project”) to be constructed in [\_] by Sponsor, with an expected commercial operation date in [\_]. The equity investment will be made under an Investment Tax Credit flip structure in a limited liability company (the “Company”) that will own and operate the project company (the “Transaction”). This Term Sheet does not constitute a commitment of Investor to prepare, negotiate, execute or deliver such a commitment. Investor’s decision to participate in the Transaction is contingent on investor’s completion of due diligence and obtaining internal approvals, including approval of its investment committee, and the execution of final documentation in a form and substance satisfactory to Investor, among other conditions. This Term Sheet is not to be released to or discussed with any third party without the prior written consent of Investor. Unless the context otherwise requires, capitalized terms used but not defined in this Term Sheet have the meanings given to them in the proposal letter to which this Term Sheet is attached.

Sponsor anticipates that the Project will qualify for, and elect to claim, the investment tax credit under Section 48 of the Internal Revenue Code.

<b>GENERAL</b>	
<b>The Company</b>	A limited liability company organized under the laws of the state of Delaware that owns 100% of the equity in [_], the limited liability company that owns the Project (the “ <u>Project Company</u> ”).
<b>The Managing Member</b>	Sponsor or one of its affiliates will be the Managing Member of the Company.
<b>Guarantor</b>	[Sponsor]
<b>The Tax Equity Investor</b>	Investor or an affiliate thereof.
<b>Manager and Operator</b>	Sponsor or an affiliate of Sponsor will be the (1) manager/administrator of the Project pursuant to a Management Services Agreement (“ <u>MSA</u> ”) and (2) the operator of the Project pursuant to an Operations and Maintenance Agreement (the “ <u>O&amp;M Agreement</u> ”).
<b>Commitment Date</b>	Investor requires that the equity capital contribution or purchase agreement (the “ <u>ECCA</u> ”) be signed no later than [_].

<p><b>Initial and Final Funding Dates</b></p>	<p>The outside date for the final funding of the Project, which will occur at the substantial completion of the Project, will be [___], 2017, however, Sponsor anticipates that the final funding date for the Project will occur by [___], 2017 (the “<u>Final Funding Date</u>”).</p> <p>Following the mechanical completion of the first block of the Project but prior to the subsequent testing, power generation, synchronization or back feeding, etc of the Project (each a “<u>Subsequent Development Action</u>”), there will be an initial funding by the Class A Member of the Project as specified below in “Class A Member Funding Amount” (the date of such funding being the “<u>Initial Funding Date</u>”).</p> <p>The Initial Funding Date and the Final Funding Date are referred to herein as “<u>Funding Dates</u>”.</p>
<p><b>DEAL STRUCTURE</b></p>	
<p><b>Class B Shares/Class B Member</b></p>	<p>Sponsor or an affiliate will purchase or retain 100% of the Class B Shares of the Company.</p>
<p><b>Class A Shares/Class A Member</b></p>	<p>The Tax Equity Investor will receive 100% of the Class A Shares of the Company upon the Initial Funding Date.</p>
<p><b>Target IRR/Flip Date</b></p>	<p>An Internal Rate of Return of [___]% (the “<u>Initial Target IRR</u>”) expected to be realized in the Base Case Model no later than [___] years following the Final Funding Date (the “<u>Target Flip Date</u>”). The date upon which the Target IRR is achieved being the “<u>Flip Date</u>”.</p> <p>The Class A Member’s [5]% residual share is subject to adjustment to maintain an after-tax IRR at the twenty-fifth (25<sup>th</sup>) anniversary of the Final Funding Date of at least [100] basis points over the Target IRR (the “<u>All-In Return</u>”). The Base Case Model shall demonstrate a pre-tax return, treating the ITC as cash, of at least [2.00]% as of the twenty-fifth (25<sup>th</sup>) anniversary of the Final Funding Date and contemplates the receipt of the ITC on the remaining tax payment dates during the calendar year following the Final Funding Date.</p>
<p><b>Re-Pricing Metrics</b></p>	<p>(i) the occurrence of the Flip Date by the Target Flip Date in the Base Case Model, (ii) achievement of an All-In Return of at least 100 basis points over the Target IRR, (iii) the Base Case Model demonstrating a pre-tax return, treating</p>

	<p>the ITC as cash, of at least 2.00% as of the twenty-fifth (25<sup>th</sup>) anniversary of the Final Funding Date and (iv) a deficient restoration obligation no greater than the DRO Cap.</p>
<p><b>Cash Distributions and Tax Allocations<sup>1</sup></b></p>	<p><i>Phase I:</i> Beginning at the Final Funding Date until [__] (end of the ITC year), the Class A Member shall receive [__]% of the cash items and [__]% of the tax items, including the ITC. The Class B Member shall receive [__]% of the cash items and [__]% of all tax items.</p> <p><i>Phase II:</i> Beginning after the expiration of Phase I until [__] ([__] years after the Final Funding Date), the Class A Member shall receive [__]% of the cash and [__]% of the tax items and the Class B Members shall receive [__]% of the cash and 33[__]% of the tax items.</p> <p><i>Phase III:</i> Beginning after the expiration of Phase II until the earlier to occur of (i) the Target Flip Date and (ii) the Flip Date, the Class A Member shall receive [__]% of the cash and [__]% of the tax items and the Class B Members shall receive [__]% of the cash and [__]% of the tax items.</p> <p>[<i>Phase IV:</i> For the period after the Target Flip Date until the Flip Date, the Class A Member will receive 100% of cash and 99% of the tax items and the Class B Member will receive 0% of cash and 1% of the tax items.]</p> <p><i>Phase V:</i> For the period after the Flip Date, the Class A Member will receive [5]% of cash and tax items and the Class B Member will receive [95]% of cash and tax items</p> <p>Notwithstanding the forgoing, in the event of a Change in Tax Law subsequent to the Final Funding Date results in the Flip Date being projected to occur more than [ ] months following the Target Flip Date (the “<u>Outside Target Flip Date</u>”), the cash distribution percentages set forth in Phases I through III above shall be adjusted in amounts sufficient to cause the Base Case Model (updated to take into account such Change in Law and the corollary adjustent in cash distribution percentages) to demonstrate the achievement of the Flip Date no later than the Outside Target Flip Date.</p> <p>Notwithstanding the foregoing, cash associated with the sale</p>

<sup>1</sup> NB: percentage allocations and dates in this section subject to adjustment to conform to the final model.

	<p>of SRECs prior to the Flip Date (i.e., during Phases 1 – III described above) shall be distributed [100]% to the Class B Member and [0]% to the Class A Member, provided, that if the Target IRR has not been achieved by the Target Flip Date, then from the Target Flip Date until the Flip Date, cash associated with the sale of SRECs shall be distributed as set forth in Phase IV above.</p> <p>Cash distributions shall be made by the Managing Member no less frequently than monthly.</p>
<b>Post Flip DRO reimbursement</b>	<p>Notwithstanding the cash distributions and tax allocation set forth above, following the Flip Date, any income allocation in excess of the [5]% base allocation for deficit cure which is not offset by the carry forward loss limitation allowance, and which will then generate “excess” taxes, will be compensated by an additional cash distribution to Investor equal to those “excess” taxes (uncovered income times the applicable tax rate) (such amount the “<u>Post-Flip DRO Cure</u>”). Any Post-Flip DRO Cure to Investor will be in addition to the minimum [5]% cash distributions.</p>
<b>Class A Members Funding Amount</b>	<p>Based on the Terms and Conditions herewith and the Base Case Model [____].xls (“<u>Base Case Model</u>”), the Class A Member agrees to fund (i) [20]% of its aggregate anticipated funding in respect of the Project (the “<u>Initial Class A Funding Amount</u>”) on the Initial Funding Date and (ii) the balance of its funding in respect of the Project on the Final Funding Date of such Project (the “<u>Final Class A Funding Amount</u>”) (the sum of (i) and (ii) for the Project being the “<u>Aggregate Class A Funding Amount</u>”), which represents the aggregate expected Class A funding required for the Project.</p> <p>The Initial Class A Funding Amount and Final Class A Funding Amount shall be adjusted on the applicable Funding Date as per the section below entitled “Update to Class A Funding Amount” (such updated amount being the “<u>Class A Funding Amount</u>”), subject to a maximum Class A Funding Amount equal to \$[____] million (the “<u>Class A Funding Commitment</u>”).</p>
<b>Update to Class A Funding Amount</b>	<p>Immediately prior to the Initial Funding Date and Final Funding Date, the Class B Member shall rerun the Base Case Model to determine any adjustments to the applicable Initial Class A Funding Amount, Final Class A Funding Amount, and/or cash distributions in the LLC Agreement,</p>

	<p>as applicable, by updating the data and inputs used for the Base Case Model delivered at execution of the ECCA to take into account any change to the assumptions based on updated information from the independent engineer, the appraiser, the market and transmission consultant, the insurance consultant and the environmental consultant.</p>
<p><b>Change in Tax Law and Proposed Change in Tax Law</b></p>	<p>In the event of Change in Tax Law or a Proposed Change in Tax Law, the Base Case Model shall be rerun to incorporate such Change in Tax Law or Proposed Tax Law Change, as applicable, and the Initial Class A Funding Amount, Final Class A Funding Amount, and/or cash distributions in the LLC Agreement, as applicable, shall be adjusted so as to demonstrate achievement of the Re-pricing Metrics, it being understood that the aggregate of such payment plus the Aggregate Class A Funding Amount shall not exceed the Class A Funding Commitment.</p> <p>To the extent that adjustments are made as set forth in the foregoing paragraph to address a Proposed Tax Law Change and such Proposed Tax Law Change (or any further Proposed Tax Law Change that has the same or similar impact as such Proposed Tax Law Change) does not become a Change in Tax Law before the date that is ten (10) days (excluding Sundays) after adjournment <i>sine die</i> of the second session of the One Hundred and Fifteenth United States Congress (or such earlier date when the Members agree in writing that the Proposed Tax Law Change will not become a Change in Tax Law), then the Base Case Model from the Final Funding Date shall be rerun, without changing any inputs or parameters other than to remove the effect of assumptions made in connection with such Proposed Tax Law Change, to achieve the Re-pricing Metrics, and the Class A Member shall make an additional payment to the Class B Member, which shall be treated as a purchase price adjustment, it being understood that the aggregate of such payment plus the Aggregate Class A Funding Amount shall not exceed the Class A Funding Commitment, and the LLC Agreement will be amended as necessary to take into account any changes to allocations or distributions resulting from the rerun of the Base Case Model.</p> <p>“<u>Change in Tax Law</u>” shall be defined as (i) any change in or amendment to the Code or other applicable federal income tax statute; (ii) any issuance, promulgation or</p>

	<p>change in, or of, any proposed, temporary or final Treasury Regulations; (iii) any IRS guidance published in the Internal Revenue Bulletin and/or Cumulative Bulletin, notice, announcement, revenue ruling, revenue procedure, technical advice memorandum, examination directive, or similar authority published by the IRS of general applicability, that applies, advances or articulates a new or different interpretation or analysis of any provision of the Code, any other applicable federal tax statute or any temporary or final Treasury Regulation promulgated thereunder; or (iv) any change in the interpretation of any of the authorities described in clauses (i) through (iii) above by a decision of the U.S. Tax Court, the U.S. Court of Federal Claims, a U.S. District Court, a U.S. Court of Appeals or the U.S. Supreme Court.</p> <p>“<u>Proposed Tax Law Change</u>” shall be defined as (a) any federal income tax legislation that is passed by either house of Congress or reported by the House Ways and Means Committee, the Senate Finance Committee, the House Committee on Appropriations, the Senate Committee on Appropriations, the House Committee on Energy and Commerce, the Senate Committee on Energy and Natural Resources or any bill sponsored or co-sponsored by the chairman or ranking member of such committee being referred to such committee, (b) any proposed change in or amendment to the Code or any other applicable federal income tax statute included in currently proposed federal legislation from (1) the Executive Branch, (2) the Majority Leader of the United States Senate or (3) the Speaker of the United States House of Representatives, or (c) the issuance of proposed Treasury Regulations that, in each case, if it becomes law or, in the case of proposed Treasury Regulations, become final, would materially adversely affect the modeled ITC or other tax items, including the ability of the Class A Member to use the ITC and other tax items.</p>
<p><b>Fixed Tax Assumptions</b></p>	<p>For purposes of calculating whether the Flip Date has occurred, the following items will be fixed and not change:</p> <ul style="list-style-type: none"> <li>(i) the Company is a partnership for United States federal income Tax purposes;</li> <li>(ii) after the Initial Funding Date, the Class B Member and the Class A Member (the “<u>Members</u>”) are the sole partners in the Company;</li> </ul>

	<p>(iii) the Company, after the Initial Funding Date, is for United States federal income Tax purposes the owner of the Project; and</p> <p>(iv) the allocations described in the limited liability company operating agreement for the Company (the “<u>LLC Agreement</u>”) will be respected by the Internal Revenue Service either because they have “substantial economic effect” or are otherwise consistent with the Members’ interests in the Company within the meaning of Section 704(b) of the Internal Revenue Code of 1986, as amended from time to time.</p>
<b>Capital Accounts</b>	Capital accounts will be maintained in accordance with Section 704(b) of the Internal Revenue Code of 1986, as amended from time to time, and the Treasury Regulations promulgated thereunder. The Class A Member will have a Deficit Restoration Obligation Cap of [__]% (the “DRO Cap”) of its investment.
<b>TERMS AND CONDITONS</b>	
<b>Expenses and Fees</b>	<p>Sponsor will be responsible for documented third party fees, Investor’s out-of-pocket expenses, and expenses of third party consultants, including the independent engineer, the appraiser, the market and transmission consultant, the insurance consultant and the environmental consultant. With respect to legal fees, Sponsor will pay the Class A Member’s transaction and local counsel any amounts due upon the execution of the ECCA and upon each of the Initial Funding Date and Final Funding Date.</p> <p>Sponsor will review and approve a budget for Class A Member’s local counsel, which will be the cap for payment by Sponsor to such local counsel.</p>
<b>Structuring Fee</b>	Upon the execution of the ECCA, Sponsor will pay Investor, a non-refundable structuring fee equal to [__]% of the Class A Funding Commitment (the “ <b>Structuring Fee</b> ”).
<b>Conditions Precedents to each Funding Date</b>	<p>The conditions precedents to the obligation of the Class A Member to fund the Class A Member Funding Amount under the ECCA on each Funding Date shall be subject to the following conditions precedent:</p> <ol style="list-style-type: none"> <li>1. The Project shall be free and clear of liens, other than permitted liens as specified.</li> <li>2. Each of the Company and the Project Company has</li> </ol>

	<p>performed its obligations under the material contracts to which the Company or the Project Company is party to be performed prior to such date.</p> <ol style="list-style-type: none"> <li>3. All representations and warranties made by the Class B Member are true and correct in all material respects.</li> <li>4. All governmental approvals are validly issued, except for those not yet required to be obtained.</li> <li>5. Each material contract is executed, is in full force and effect and is acceptable to the Class A Member.</li> <li>6. No condemnation is threatened or pending.</li> <li>7. No proceeding has been instituted in writing by any governmental authority to prohibit consummation of the transaction.</li> <li>8. Notice of Funding 10 business days prior to funding date.</li> <li>9. An updated Base Case Model, reasonably satisfactory to the Class A Member has been received.</li> <li>10. Receipt of an appraisal satisfactory to the Class A Member.</li> <li>11. Satisfactory audited balance sheets of the Company and the Guarantor have been received.</li> <li>12. The Members have received all legal opinions specified in the ECCA, including corporate, regulatory, environmental, real estate and state and local tax, as well as an opinion from tax counsel to the Class A Member.</li> <li>13. Good standing certificates and incumbency certificates have been delivered for the Class B Member and its applicable affiliates.</li> <li>14. The cost segregation report has been received and incorporated into the funding model.</li> <li>15. Satisfactory first Annual Budget has been received.</li> <li>16. The Class A Member has received an estoppel from the EPC Contractor, counterparty to the Interconnection Agreement, the Off-Taker and the landowners.</li> <li>17. All consents, approvals, and filings required to consummate the transaction have been completed.</li> <li>18. For the Initial Funding Date, the Independent Engineer has certified that mechanical completion of the first block<sup>2</sup> has occurred and no Subsequent</li> </ol>
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<sup>2</sup> Subject to due diligence and discussion.

	<p>Development Action has occurred, for the Final Funding Date, the Independent Engineer has provided a certificate of substantial completion.</p> <ol style="list-style-type: none"> <li>19. Bring-downs of the reports and reliance letters from the insurance consultant, environmental consultants, independent price forecasting reports (for SRECs, merchant power prices, and merchant capacity prices), and the independent engineer.</li> <li>20. Insurance Certificates have been received by all Members.</li> <li>21. The Title Proforma has been received by all Members and the insured amount shall be no less than the fair market value of the Project(s).</li> <li>22. All amounts required to be paid to complete construction of the Project, or reserves to make such payments, have been paid, deposited or established.</li> <li>23. Satisfactory due diligence and receipt of related reports with respect to endangered species.</li> <li>24. Satisfactory due diligence with respect to the Off-Take Agreement.</li> <li>25. Satisfactory due diligence with respect to the Off-Taker for the appropriations, termination for convenience and set-off risks associated therewith.</li> <li>26. Each Member has received the flow of funds.</li> <li>27. All the Members have received the executed LLC Agreement.</li> <li>28. The Members have received the executed ASA and O&amp;M Agreement.</li> <li>29. No adverse Change in Tax Law or Proposed Change in Tax Law, unless the impact of such laws have been accounted for in the model as otherwise set forth under “Change in Tax Law and Proposed Change in Tax Law” to the Class A Member’s satisfaction;</li> <li>30. Use of major equipment (panels, inverters and trackers) from approved manufacturers with warranties satisfactory to the Class A Member.</li> <li>31. No occurrence of a material adverse effect on the Class B Member, the Guarantor or the major project participants.</li> <li>32. Such other conditions precedent as are identified in due diligence.</li> </ol>
<p><b>Representations and Warranties</b></p>	<p>The ECCA shall include customary representations and warranties.</p>

<p><b>Property Insurance</b></p>	<p>Sponsor will procure (i) casualty insurance for the Project in an amount no less than 100% of the total replacement costs of the Project, (ii) an endorsement to the casualty insurance to cover the economic impact of ITC recapture associated with such casualty and (iii) earthquake insurance.</p> <p>The Project’s insurance coverage shall be provided for each of the named perils for the Project.</p> <p>If the Project suffers a casualty it shall be rebuilt with the insurance proceeds.</p> <p>Class A Member will be added as “Additional Insured”.</p>
<p><b>Management and O&amp;M Services</b></p>	<p>Pursuant to the Administrative Services Agreement (“<u>ASA</u>”) and the O&amp;M Agreement, Sponsor or an affiliate will manage and provide O&amp;M, administrative and other services to the Project (for the avoidance of doubt, the O&amp;M Agreement does not include any panel or other equipment maintenance to be provided directly by the suppliers).</p> <ul style="list-style-type: none"> <li>• The agreements will have initial terms of [10] years and will be automatically extended for five-year periods unless either the Company, Sponsor, or the appropriate Sponsor affiliate, elects not to renew.</li> <li>• The Company will pay Sponsor or its affiliate annual fees under the ASA and the O&amp;M Agreement, plus reimbursement for costs and overhead, subject to the limitations of the Approved Budget per the LLC Agreement.</li> <li>• The annual base fee under the ASA and the O&amp;M Agreement will be \$[ ] and \$[ ], respectively (both fees escalating each year by the CPI).</li> <li>• The agreements will contain customary limits on liability and indemnities.</li> </ul>
<p><b>Approved Budget</b></p>	<p>The Managing Member shall prepare and submit to the Members no later than [__] of each fiscal year, a budget and operations plan for the Company for the subsequent fiscal year, which sets forth the anticipated revenues and expenditures for such fiscal year as determined by the Managing Member (the applicable operating budget for such fiscal year being referred to as the “<u>Operating Budget</u>”).</p>

<b>TRANSFERS</b>	
<b>Transfers Generally</b>	<p>The LLC Agreement will include usual and customary transfer restrictions. Without the consent of the Class A Member, the Class B Member may transfer up to 49% of the Class B Membership Interest. Without the consent of the Class A Member, the Class B Member may transfer more than 49% of its Class B Membership Interest if the transferee meets the following requirements:</p> <ul style="list-style-type: none"> <li>(i) either (A) has, or is controlled by an affiliate that has, a rating not less than “BBB” for S&amp;P or “Baa2” from Moody’s or (B) has a tangible net worth of at least \$1,000,000,000 if determined prior to the Flip Point or at least \$250,000,000 if determined after the Flip Point; and</li> <li>(ii) prior to the Flip Date, (A) has, (A) for the three (3) preceding years, owned or operated (or had access to the expertise required in order to operate through committed management agreements) at least 500 MWs of solar generation assets or 1,000 MWs of renewable energy generation assets (of which at least 100 MWs were solar generation assets) or (B) after the Flip Date, for the preceding year, owned or operated (or had access to the expertise required in order to operate through committed management agreements) at least 100 MWs of solar generation assets or 250 MWs of power generation assets (of which at least 50 MWs were solar generation assets).</li> </ul> <p>The LLC Agreement will provide that any transfer of an interest in the Class A Member shall not require any consent of the Class B Member so long as Investor maintains an ownership interest in the Class A Member.</p>
<b>VOTING</b>	
<b>Fundamental Decisions</b>	<p>Certain fundamental decisions to be agreed in connection with the execution of definitive documentation shall require the consent of at least 66% of Class A Shares and 66% of Class B Shares both prior to the later of the Flip Date and the expiration of the Class A Member’s Deficit Restoration Obligation (the “<u>Sunset Date</u>”) and after the Sunset Date.</p>
<b>Major Decisions:</b>	<p>Certain major decisions to be agreed in connection with the execution of definitive documentation shall require the</p>

	consent of at least 51% of Class A Shares and 51% of Class B Shares prior to the Sunset Date. There will be no Major Decisions applicable following the Sunset Date.
<b>MISCELLANEOUS</b>	
<b>Guaranty: Scope</b>	The obligations of the Sponsor affiliates under the ECCA, the LLC Agreement, MSA and O&M Agreement (if not direct obligations of Sponsor) shall be guaranteed by the Guarantor.
<b>Indemnity: Cash Sweep</b>	The Class A Member shall have the right to sweep 100% of the cash payable to the Class B Member for claims relating to breaches of the ECCA or the LLC Agreement if damages are not paid within 30 days of a claim being finally determined or not disputed until such claim is paid in full; provided that, in the event that (the Class B Member is disputing its liability for claim, 100% of the cash payable to the Class B Member shall be swept into an escrow account up to the amount of such claims until the Class B Member's liability for such claim is finally determined.
<b>Removal of Managing Member</b>	The Managing Member shall not be removed without "Cause," which shall be defined as (i) fraud, willful misconduct or gross negligence of the Managing Member, (ii) a material breach of the Managing Member's obligations under the LLC Agreement, and (iii) a "Bankruptcy" of the Managing Member; <i>provided, however,</i> that in the case of clause (ii), if such breach is curable, the Managing Member shall have the opportunity to cure such breach within 30 days of receiving written notice from the Class A Member of such breach; <i>provided, further,</i> that if such breach cannot be cured within such period, and the Managing Member is proceeding with diligence to cure such breach, the 30-day cure period shall be extended by an additional 60 days, for a total cure period of 90 days.
<b>Project Credit Support</b>	The Class B Member will provide the credit support required to be posted at the Final Funding Date under the Company's project documents. Thereafter, the Class B Member shall be required to maintain and replenish such credit support in exchange for an annual fee to be paid by the Company. Any draw of any credit supported provided by the Class B Member shall be treated as a member loan to the Company.
<b>Purchase Option – Timing</b>	For a purchase price equal to the greater of (i) fair market

<b>and Purchase Price</b>	value as then determined by a third-party appraiser if not mutually agreed to by the parties, (ii) Investor's projected book balance on Target Flip Date to be determined on the Final Funding Date and (iii) the amount which preserves achievement of the All-In Return, the Class B Member shall have the right to elect to buy the Class A Member's interest within 180 days after each of the following dates (x) the Flip Date and (y) the fifth anniversary of the Flip Date.
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